

CAPTAIN MARTIJN MOBACH - JUNE 15, 2005

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

JOHN TURNER )  
 ) CIVIL ACTION  
vs. )  
 ) NO. 04-936 (JJF)  
B.V. SHIPPING COMPANY )  
LUZON STRAIT (GRONINGEN) )

ORAL DEPOSITION

CAPTAIN MARTIJN S. MOBACH

June 15, 2005

ORAL DEPOSITION OF CAPTAIN MARTIJN S. MOBACH,  
produced as a witness at the instance of the  
Plaintiff and duly sworn, was taken in the  
above-styled and numbered cause on the 15th day of  
June, 2005, from 9:45 a.m. to 3:26 p.m., before  
Michelle Hartman-Solari, Certified Shorthand Reporter  
and Registered Professional Reporter, reported by  
computerized stenotype machine at the offices of the  
Motel Schiphol A4, Rijksweg A4 No. 3, 2132 MA  
Hoofdoorp, The Netherlands, pursuant to the Federal  
Rules of Civil Procedure and the provisions stated on  
the record or attached hereto.

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## ALSO PRESENT:

Captain Mark R. Jansen, Seatrade Manager Operations  
Chief Engineer Cornelis J. Balvert

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MR. WHELAN: I guess we can go on the record with the stipulation that Mr. Gruber, counsel for the plaintiff, and myself, counsel for the defendant, agree that the court reporter can swear in the witness for this deposition.

MR. GRUBER: Yes, that's correct.

MR. WHELAN: Off the record for a second.

(Discussion off the record)

MR. WHELAN: And then we will have the usual stipulations under the Federal Rules of Civil Procedure.

MR. GRUBER: Waiving the signing and filing and certification of the deposition. All objections except as to form will be reserved until the time of trial.

MR. WHELAN: Unless, Captain, do you on the signing -- you should be aware of this. You have the right under our federal rules, which is the rules of the United States, to be able to read the deposition transcript first to make sure it's what you said.

THE WITNESS: Okay.

MR. WHELAN: And then sign it. Say, "Yes, that's okay," or say, "No, I really meant

<p style="text-align: right;">6</p> <p>1 this."</p> <p>2 Would you like to do that, or would</p> <p>3 you like to waive that?</p> <p>4 THE WITNESS: What do you recommend?</p> <p>5 MR. WHELAN: Well, if you're not sure,</p> <p>6 maybe we should allow him to read it and sign it.</p> <p>7 MR. JANSEN: Let's do that.</p> <p>8 MR. WHELAN: Okay. So we will go with</p> <p>9 the reading and signing for the captain.</p> <p>10 THE COURT REPORTER: Off the record</p> <p>11 for one moment.</p> <p>12 (Discussion off the record)</p> <p>13 CAPTAIN MARTIJN S. MOBACH,</p> <p>14 having been first duly sworn, testified as follows:</p> <p>15 EXAMINATION</p> <p>16 Q. (BY MR. GRUBER): Good morning, Captain</p> <p>17 Mobach. My name is Stan Gruber. We were introduced</p> <p>18 before we started today. I represent a longshoreman</p> <p>19 by the name of John Turner, who has brought a lawsuit</p> <p>20 against the B.V. Shipping Company LUZON STRAIT as a</p> <p>21 result of an incident which took place on November 8,</p> <p>22 2002, while the vessel, the LUZON STRAIT --</p> <p>23 MR. GRUBER: Off the record a minute.</p> <p>24 (Discussion off the record)</p> <p>25 Q. (BY MR. GRUBER): -- while the vessel, the</p>	<p style="text-align: right;">8</p> <p>1 Q. And how long have you been speaking</p> <p>2 English?</p> <p>3 A. I think my first training was in primary</p> <p>4 school, so formally at the age of 12 you get formal</p> <p>5 English education.</p> <p>6 Q. In fact, one of the requirements for the</p> <p>7 job as a master aboard Seatrade-operated vessels is</p> <p>8 that you speak English; is that correct?</p> <p>9 A. That's correct.</p> <p>10 Q. It's also important, as you have been</p> <p>11 doing, to answer my questions verbally out loud, as</p> <p>12 opposed to a nod or a shake of your head, or</p> <p>13 sometimes we go, "uh-huh" or "huh-uh." So try to do</p> <p>14 it whenever possible "yes" or "no". All right?</p> <p>15 A. Okay.</p> <p>16 Q. Also, I don't think we will have this</p> <p>17 problem, but sometimes you will know what my question</p> <p>18 is before I've finished it.</p> <p>19 A. Yeah.</p> <p>20 Q. And you will be anxious to answer. But try</p> <p>21 to wait until I finish my question until you give an</p> <p>22 answer. All right?</p> <p>23 A. Okay.</p> <p>24 Q. And if you need to take a break at any</p> <p>25 time, that's perfectly fine. If you want to consult</p>
<p style="text-align: right;">7</p> <p>1 LUZON STRAIT, was berthed in the Port of Wilmington,</p> <p>2 Delaware.</p> <p>3 Have you ever given a deposition</p> <p>4 before? Have you ever done something like that</p> <p>5 before?</p> <p>6 A. Never.</p> <p>7 Q. Okay. I'm sure Mr. Whelan has explained</p> <p>8 the process to you, and I'm sure he's explained the</p> <p>9 number of things that I'm about to tell you. But</p> <p>10 it's important to just emphasize that if you don't</p> <p>11 understand a question that I'm putting to you, please</p> <p>12 let me know, and I will rephrase the question.</p> <p>13 A. Okay.</p> <p>14 Q. Otherwise, this is going to get typed up</p> <p>15 into a transcript and people are going to -- may hear</p> <p>16 it at some later date that I asked you a question and</p> <p>17 you gave an answer. And so it's important that you</p> <p>18 understand the question before you answer it, because</p> <p>19 in most instances it's going to be assumed that you</p> <p>20 understood the question unless you say, "I don't</p> <p>21 understand. Please rephrase it." So if you have any</p> <p>22 doubt in your mind at all, please let me know.</p> <p>23 A. Okay, I will.</p> <p>24 Q. And you speak English, obviously?</p> <p>25 A. Yes, I do.</p>	<p style="text-align: right;">9</p> <p>1 with Mr. Whelan at any time, just let me know and we</p> <p>2 can take a break. All right?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. How are you presently employed?</p> <p>5 What is your present employment?</p> <p>6 A. I'm now a technical superintendent with</p> <p>7 Seatrade Groningen.</p> <p>8 Q. And your office is in Groningen,</p> <p>9 Netherlands?</p> <p>10 A. Correct.</p> <p>11 Q. How long have you been employed as</p> <p>12 technical superintendent?</p> <p>13 A. For one year and five months.</p> <p>14 Q. As technical superintendent, are you</p> <p>15 assigned to any specific ships or vessels?</p> <p>16 A. Yes. There's five ships which I am</p> <p>17 assigned to.</p> <p>18 Q. Is the LUZON STRAIT one of those ships?</p> <p>19 A. No.</p> <p>20 Q. Are those five ships all what we call</p> <p>21 reefer ships?</p> <p>22 A. Yes.</p> <p>23 Q. Does -- well, I will withdraw that.</p> <p>24 What did you do -- what was your</p> <p>25 employment before you were designated as technical</p>

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<p>10</p> <p>1 superintendent?</p> <p>2 A. I was a captain.</p> <p>3 Q. And again, were you -- who was your</p> <p>4 employer while you were sailing as a captain?</p> <p>5 A. My employer then was Sea Services</p> <p>6 Groningen.</p> <p>7 Q. Sea Services?</p> <p>8 A. Yeah.</p> <p>9 Q. Is that company associated with Seatrade?</p> <p>10 A. They contract with each other, but -- so</p> <p>11 they are -- Sea Services is a service provider to</p> <p>12 Seatrade Groningen.</p> <p>13 Q. Now you're directly employed by Seatrade as</p> <p>14 technical superintendent, correct?</p> <p>15 A. Yeah.</p> <p>16 Q. How many Seatrade vessels did you serve on</p> <p>17 as master?</p> <p>18 A. Four.</p> <p>19 Q. And what were they?</p> <p>20 A. The first one was COMOROS STREAM.</p> <p>21 Q. Could you spell that, please.</p> <p>22 A. C-O-M-O-R-O-S, STREAM, S-T -- S-T-R-E-A-M.</p> <p>23 Q. Right.</p> <p>24 A. There was the MAYA, M-A-Y-A. And the third</p> <p>25 one was the LUZON STRAIT, and the last one was</p>	<p>12</p> <p>1 (Phone rings, and discussion off the</p> <p>2 record)</p> <p>3 THE WITNESS: I returned on board</p> <p>4 mid-April. Mid-April 2003 is what I recall. Then I</p> <p>5 finished with that contract on 3 September 2004 --</p> <p>6 no, '03.</p> <p>7 Q. (BY MR. GRUBER): '03?</p> <p>8 A. Yeah.</p> <p>9 Q. And then you went on the ELVIRA?</p> <p>10 A. Correct, in December.</p> <p>11 Q. Is there any particular reason why you left</p> <p>12 the service of the LUZON STRAIT?</p> <p>13 A. No, no particular reason. We just had a</p> <p>14 system of rotation.</p> <p>15 Q. During the period of time that you were</p> <p>16 sailing as master of the LUZON STRAIT, by whom were</p> <p>17 you paid?</p> <p>18 A. Sea Services Groningen.</p> <p>19 Q. From whom did you receive any instruction</p> <p>20 as to how you were to carry out your duties and</p> <p>21 responsibilities as master?</p> <p>22 A. From -- that is from the management of</p> <p>23 Seatrade Groningen.</p> <p>24 Q. Seatrade Groningen?</p> <p>25 A. Yeah.</p>
<p>11</p> <p>1 ELVIRA, which was E-L-V-I-R-A.</p> <p>2 Q. They were all reefer ships?</p> <p>3 A. Yes.</p> <p>4 Q. Do you know what I mean by the term "sister</p> <p>5 ship"?</p> <p>6 A. Yes.</p> <p>7 Q. Were these sister ships?</p> <p>8 A. No, no.</p> <p>9 Q. They were all different?</p> <p>10 A. All different, yeah.</p> <p>11 Q. Over what period of time did you serve as</p> <p>12 master of the LUZON STRAIT?</p> <p>13 A. From 31st August 2002 until 23 September</p> <p>14 2003 were the two terms that I have, so I had a</p> <p>15 holiday in between.</p> <p>16 Q. And that was continuous?</p> <p>17 MR. WHELAN: No, he had a holiday in</p> <p>18 there.</p> <p>19 THE WITNESS: Holiday in between.</p> <p>20 MR. GRUBER: Oh, I'm sorry.</p> <p>21 MR. WHELAN: Why don't you give the</p> <p>22 actual periods of the ship.</p> <p>23 THE WITNESS: The first period was</p> <p>24 August 2002 until mid-December, mid-December of 2002.</p> <p>25 Then I re --</p>	<p>13</p> <p>1 Q. Okay.</p> <p>2 A. They're the manager.</p> <p>3 Q. I understand. Seatrade Groningen was the</p> <p>4 manager of the LUZON STRAIT; is that correct?</p> <p>5 A. Correct.</p> <p>6 Q. Do you know who the owner of the ship was?</p> <p>7 A. That's the B.V. Shipping Company LUZON</p> <p>8 STRAIT.</p> <p>9 Q. Had you ever sailed on any other B.V.</p> <p>10 Shipping Company vessels?</p> <p>11 A. Yes.</p> <p>12 Q. Which ones?</p> <p>13 A. As I recall, the COMMORO<sup>S</sup> STREAM would have</p> <p>14 its own B.V., B.V. Shipping Company COMMORO<sup>S</sup> STREAM.</p> <p>15 Q. Right.</p> <p>16 A. The MAYA, I don't recall what was the</p> <p>17 owner's -- the company's name. The ELVIRA I think is</p> <p>18 the same construction, B.V. Shipping Company ELVIRA.</p> <p>19 Q. Okay. As master of the ship, are you</p> <p>20 required to be familiar with the management agreement</p> <p>21 between Seatrade and B.V. Shipping Company?</p> <p>22 A. No.</p> <p>23 Q. But in general, are you aware of the fact</p> <p>24 that Seatrade does manage vessels, certain vessels</p> <p>25 like the LUZON STRAIT and the COMMORO<sup>S</sup> STREAM, which</p>

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<p style="text-align: right;">14</p> <p>1 are different B.V. Shipping Company corporations?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Do you know whether there is any</p> <p>4 common ownership between Seatrade and these B.V.</p> <p>5 shipping companies?</p> <p>6 A. No.</p> <p>7 Q. You don't know?</p> <p>8 A. No.</p> <p>9 Q. Okay. Just a few background questions</p> <p>10 about yourself. When were you born?</p> <p>11 A. I was born 23 September 1969.</p> <p>12 Q. Where were you born?</p> <p>13 A. The city Utrecht, which is U-T-R-E-C-H-T,</p> <p>14 in Holland.</p> <p>15 Q. And you are a citizen of Holland?</p> <p>16 A. Yes.</p> <p>17 Q. And your present home address?</p> <p>18 A. Present home address is in Antwerp.</p> <p>19 Q. Can you give the -- she will be able to</p> <p>20 understand it. <i>Willem</i></p> <p>21 A. <del>Willem</del> Klooslaan 12, post code 2050,</p> <p>22 Antwerp.</p> <p>23 Q. How long have you lived in Antwerp?</p> <p>24 A. Since May 2000.</p> <p>25 Q. Okay. And what is the highest level of</p>	<p style="text-align: right;">16</p> <p>1 did you follow there?</p> <p>2 A. It is called Maroff, M-A-R-O-F-F. It's a</p> <p>3 maritime officer, and that's a four-year training for</p> <p>4 nautical and engineering professions, jobs.</p> <p>5 Q. And when did you graduate?</p> <p>6 A. 1991.</p> <p>7 Q. Okay. Then you took a year to get your</p> <p>8 master's degree?</p> <p>9 A. Correct.</p> <p>10 Q. Did there come a time when you started</p> <p>11 sailing on ships for a living?</p> <p>12 A. Yes.</p> <p>13 Q. And when was that?</p> <p>14 A. End of 1992. November, I think -- October</p> <p>15 or November.</p> <p>16 Q. When did you get your master's license?</p> <p>17 A. 2000.</p> <p>18 Q. Your chief officer's license, when did you</p> <p>19 get that?</p> <p>20 A. I think 1996 or 1997.</p> <p>21 Q. And your first -- well, when did you get</p> <p>22 your first license? Third officer I guess would</p> <p>23 be the --</p> <p>24 A. At the end of graduation in 1991.</p> <p>25 Q. And then I suppose there was a second</p>
<p style="text-align: right;">15</p> <p>1 education that you achieved?</p> <p>2 A. I have taken a master's degree in</p> <p>3 international transport, so --</p> <p>4 Q. Did you get your degree?</p> <p>5 A. Yeah.</p> <p>6 Q. Did you get your master's?</p> <p>7 A. Yeah.</p> <p>8 Q. And where did you obtain that degree?</p> <p>9 A. At University of Wales College of Cardiff.</p> <p>10 Q. And when did you get that degree?</p> <p>11 A. 1992.</p> <p>12 Q. 1992?</p> <p>13 A. Yeah.</p> <p>14 Q. What other -- if you could summarize for</p> <p>15 me -- on a college level, summarize your education,</p> <p>16 please.</p> <p>17 A. What is college level?</p> <p>18 MR. WHELAN: That means university.</p> <p>19 THE WITNESS: University? Okay, <i>Nautical</i></p> <p>20 before this university master's year I did <del>North</del></p> <p>21 (ph) Academy. It's higher educational education. I</p> <p>22 did that for four years in Holland in Flushing.</p> <p>23 Q. (BY MR. GRUBER): Flushing?</p> <p>24 A. Yeah.</p> <p>25 Q. What type of study -- what course of study</p>	<p style="text-align: right;">17</p> <p>1 officer's license in there?</p> <p>2 A. Yeah.</p> <p>3 Q. When was that?</p> <p>4 A. 1993 or 1994.</p> <p>5 Q. Okay. And over the years before you</p> <p>6 started sailing as master, did you sail as third</p> <p>7 officer, second officer and chief officer?</p> <p>8 A. Correct.</p> <p>9 Q. Did you do any of that on vessels that were</p> <p>10 managed by Seatrade?</p> <p>11 A. Yes.</p> <p>12 Q. Throughout your entire career aboard ship,</p> <p>13 have you always worked on ships that were managed by</p> <p>14 Seatrade?</p> <p>15 A. No. I have -- when I was 17, 18 I worked</p> <p>16 on ships of <del>North</del> <i>NORTH</i> Sea Ferries, and I have worked on a</p> <p>17 tanker for a few months in the summer of 1991, which</p> <p>18 was owned by Nievelt &amp; Goudriaan, which was a Dutch</p> <p>19 company.</p> <p>20 MR. WHELAN: You --</p> <p>21 Q. (BY MR. GRUBER): But those jobs were not as</p> <p>22 a licensed officer; am I correct?</p> <p>23 A. No, deckhand. Only the tanker was a second</p> <p>24 mate.</p> <p>25 Q. Oh, was it?</p>

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<p>18</p> <p>1 A. Yeah.</p> <p>2 Q. Other than the job on the tanker, has your</p> <p>3 work as a licensed officer always been aboard</p> <p>4 Seatrade-managed vessels?</p> <p>5 A. Yes.</p> <p>6 Q. And I assume it's your intention to</p> <p>7 continue your employment with Seatrade?</p> <p>8 A. Yes.</p> <p>9 Q. Your present job as technical</p> <p>10 superintendent, what do you do as technical</p> <p>11 superintendent? What's different from your job as</p> <p>12 technical superintendent as opposed to being a master</p> <p>13 of a ship?</p> <p>14 A. I managed the maintenance of the ships, so</p> <p>15 in coordinating, planned maintenance and dry docking</p> <p>16 and budgeting. So the difference very much lies in</p> <p>17 the financial aspects, the budgets which are managed.</p> <p>18 Q. Do you work with Mr. Jansen as technical</p> <p>19 superintendent?</p> <p>20 A. Yes.</p> <p>21 Q. Is he your -- your -- I say your boss, but</p> <p>22 do you work under his direction?</p> <p>23 A. No, not under his direction. But he runs</p> <p>24 one of the departments, so we do have common fields</p> <p>25 of attention.</p>	<p>20</p> <p>1 MR. JANSEN: If I may, besides the</p> <p>2 technical department, there are more departments</p> <p>3 within the shipping company.</p> <p>4 Q. (BY MR. GRUBER): All right. Well, the</p> <p>5 technical director that you're -- well, let me</p> <p>6 withdraw that.</p> <p>7 The LUZON STRAIT, would that have been</p> <p>8 in Fleet A or Fleet B, or do you know?</p> <p>9 A. I would not know about that.</p> <p>10 Q. When you were sailing as master of the</p> <p>11 LUZON STRAIT, who was the technical director?</p> <p>12 A. Mr. Horremans.</p> <p>13 Q. Can you spell that?</p> <p>14 A. H-O-R-R-E-M-A-N-S.</p> <p>15 MR. JANSEN: Just one R is --</p> <p>16 Q. (BY MR. GRUBER): All right. And what was</p> <p>17 Mr. Jansen's job then, as far as you know?</p> <p>18 What, if anything, did he have to do</p> <p>19 with the LUZON STRAIT?</p> <p>20 A. After we took the ship into management,</p> <p>21 Mr. Jansen was assigned as the technical</p> <p>22 superintendent for the LUZON STRAIT.</p> <p>23 Q. Same job that you have now for other ships?</p> <p>24 A. Yes, yes.</p> <p>25 Q. Okay. So if I understand what you told me</p>
<p>19</p> <p>1 Q. So who is the -- who is your -- whose</p> <p>2 direction do you work under?</p> <p>3 A. I work under the direction of my fleet</p> <p>4 manager.</p> <p>5 Q. Okay. Now, the does Seatrade have two</p> <p>6 fleets, or how many fleets does Seatrade have?</p> <p>7 A. I see it as one fleet. We -- one. Yeah,</p> <p>8 we have one group. I don't see any -- any</p> <p>9 distinction between fleets.</p> <p>10 Q. Okay.</p> <p>11 A. There's one group of ships that we --</p> <p>12 Q. Yeah, I have had a chance to look at some</p> <p>13 of the manuals, and I have seen reference to Fleet A</p> <p>14 and Fleet B. That's why I asked.</p> <p>15 A. Oh, there's -- yeah, there's two technical</p> <p>16 directors, each make up part of the total fleet, so</p> <p>17 in that respect they make the difference.</p> <p>18 Q. Mr. Jansen is one of those technical</p> <p>19 directors?</p> <p>20 A. No.</p> <p>21 Q. What is Mr. Jansen's --</p> <p>22 MR. JANSEN: What are you doing?</p> <p>23 (All laugh)</p> <p>24 Q. (BY MR. GRUBER): What is Mr. Jansen's job?</p> <p>25 A. He runs the --</p>	<p>21</p> <p>1 before, you have never had occasion before today to</p> <p>2 ever give testimony in a case involving a</p> <p>3 Seatrade-managed ship; is that correct?</p> <p>4 A. Correct.</p> <p>5 Q. In connection with your testimony here</p> <p>6 today, did you review any documents or photographs?</p> <p>7 A. Yes.</p> <p>8 Q. What did you review?</p> <p>9 A. I reviewed pictures of the ship and</p> <p>10 reviewed a course of events based on the log books.</p> <p>11 Q. Logbooks?</p> <p>12 A. Yeah. I think they are here.</p> <p>13 Q. Do you have the deck log for the LUZON</p> <p>14 STRAIT for the voyage in question?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Let's just see if they are --</p> <p>17 MR. WHELAN: I don't -- this can be on</p> <p>18 the record. What I have are two logs, one numbered</p> <p>19 03/2002 and one numbered 04/2002. The 03/2002 goes</p> <p>20 from 1 October to 31 October, and the 04 goes from 1</p> <p>21 November 2002 to 30 November.</p> <p>22 MR. GRUBER: So let me --</p> <p>23 (Witness complies)</p> <p>24 Q. (BY MR. GRUBER): All right. So we don't</p> <p>25 have a logbook going back to August?</p>



<p>22</p> <p>1 MR. WHELAN: Right. Off the record</p> <p>2 for a second.</p> <p>3 (Discussion off the record)</p> <p>4 Q. (BY MR. GRUBER): When did you get the</p> <p>5 assignment to sail as master on the LUZON STRAIT?</p> <p>6 A. To my recollection, that must have been in</p> <p>7 the summer of 2002 in June.</p> <p>8 Q. Were you serving aboard a ship at that</p> <p>9 time?</p> <p>10 A. No.</p> <p>11 Q. And were you informed that the ship --</p> <p>12 well, strike that. Let me withdraw that.</p> <p>13 Were you informed as to where you</p> <p>14 would join the ship?</p> <p>15 A. Yes.</p> <p>16 Q. And where was that?</p> <p>17 A. In Taiwan, and the port's name is Keelung,</p> <p>18 K-E-E-L-U-N-G.</p> <p>19 Q. Was that at the China Shipbuilding</p> <p>20 Corporation facilities?</p> <p>21 A. Correct.</p> <p>22 Q. And before you flew to Taiwan -- or did you</p> <p>23 fly to Taiwan to join the ship?</p> <p>24 A. Yes.</p> <p>25 Q. Before you did that, did have any meetings</p>	<p>24</p> <p>1 you're talking about?</p> <p>2 A. It's similar, but from a different source,</p> <p>3 but these -- the document I got were the ship</p> <p>4 particulars from the shipyard, so it was there -- is</p> <p>5 the shipyard layout with their document code, et</p> <p>6 cetera.</p> <p>7 Q. Okay. But it had similar information on</p> <p>8 it?</p> <p>9 A. Yes.</p> <p>10 Q. Now, as far as the layout of the ship --</p> <p>11 MR. GRUBER: That one shouldn't have</p> <p>12 been in there.</p> <p>13 Q. (BY MR. GRUBER): As far as the layout on</p> <p>14 the ship shown on --</p> <p>15 MR. GRUBER: What is that, P-9?</p> <p>16 MR. WHELAN: This one's P-9.</p> <p>17 Q. (BY MR. GRUBER): Was that similar to what</p> <p>18 you received?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Now, before you joined the ship, did</p> <p>21 you have any understanding as to the method that</p> <p>22 would be used on the ship for loading and discharging</p> <p>23 cargo?</p> <p>24 A. In broad concept terms, yes. In detail,</p> <p>25 no.</p>
<p>23</p> <p>1 with any Seatrade personnel to discuss your</p> <p>2 assignment to the LUZON STRAIT?</p> <p>3 A. No.</p> <p>4 Q. Did you receive any written orders or</p> <p>5 instructions of any kind?</p> <p>6 A. No.</p> <p>7 Q. Did you receive any special training -- do</p> <p>8 you know what I mean by the word "orientation"?</p> <p>9 A. Yes.</p> <p>10 Q. Did you receive any special training or</p> <p>11 orientation in connection with serving as master of</p> <p>12 the LUZON STRAIT?</p> <p>13 A. No.</p> <p>14 Q. Did you receive any information about the</p> <p>15 ship at all before joining it?</p> <p>16 A. Yes.</p> <p>17 Q. What information did you receive?</p> <p>18 A. A document that's called the ship's</p> <p>19 particulars.</p> <p>20 Q. And what does that consist of?</p> <p>21 A. It's a summary of the main technical</p> <p>22 dimensions of the ship -- length, width, depth -- and</p> <p>23 one general arrangement drawing.</p> <p>24 Q. Showing you two documents that I previously</p> <p>25 marked as P-9 and P-10, are these anything like what</p>	<p>25</p> <p>1 Q. What was your understanding in a broad</p> <p>2 concept?</p> <p>3 A. That it did not have conventional cranes,</p> <p>4 but that it would have a trolley-and-elevator type of</p> <p>5 system.</p> <p>6 Q. Had you ever worked on board a ship which</p> <p>7 had a similar system?</p> <p>8 A. I wouldn't say similar but the COMMORO</p> <p>9 STREAM had a comparable system which also worked with</p> <p>10 an elevator type of system.</p> <p>11 Q. Okay. What was the difference between the</p> <p>12 system on the LUZON STRAIT and the COMMORO STREAM?</p> <p>13 A. On the LUZON STRAIT, the system works based</p> <p>14 as a trolley that drives over a train rail track; and</p> <p>15 whereas on the COMMORO STREAM, the elevator system</p> <p>16 has a swing arm. It swings in and out.</p> <p>17 Q. This general information that you received</p> <p>18 about the LUZON STRAIT, from what source did you get</p> <p>19 that information?</p> <p>20 A. As I recall, it was mailed to me by</p> <p>21 Seatrade Groningen.</p> <p>22 Q. What was mailed to you?</p> <p>23 A. The ship's particulars. And they must have</p> <p>24 been accompanied with a phone call that informed me</p> <p>25 that I was assigned there and then told me about the</p>

<p style="text-align: right;">26</p> <p>1 different features of the ship.</p> <p>2 Q. Any idea who you spoke to?</p> <p>3 A. The first person I spoke to regarding the</p> <p>4 ship was Mr. Jan Young (ph), the crewing coordinator.</p> <p>5 Q. Okay. Anybody else that you spoke to about</p> <p>6 the technical aspects of the ship before you went to</p> <p>7 Taiwan?</p> <p>8 A. No, not as I recall.</p> <p>9 Q. Okay. Now, was this the first time that</p> <p>10 you had actually joined the ship on its maiden</p> <p>11 voyage, or had you done that before?</p> <p>12 A. I had done that before.</p> <p>13 Q. On how many prior occasions?</p> <p>14 A. Three occasions.</p> <p>15 Q. And was there a certain pattern or</p> <p>16 procedure that you followed as a master joining a</p> <p>17 ship on its first -- on its maiden voyage?</p> <p>18 A. Well, on the other three occasions, I</p> <p>19 joined as a chief officer.</p> <p>20 Q. Oh. So this was the first time you were</p> <p>21 joining as a master?</p> <p>22 A. Correct.</p> <p>23 Q. And as a master, did you have any different</p> <p>24 responsibilities than as chief officer in terms of</p> <p>25 what you wanted to do when you joined the ship?</p>	<p style="text-align: right;">28</p> <p>1 A. I assume he was employed by Seatrade, but I</p> <p>2 don't know his contract.</p> <p>3 Q. Was Mr. Jansen there at all before the ship</p> <p>4 was commissioned?</p> <p>5 A. No.</p> <p>6 Q. Mr. Borst, B-O-R-S-T?</p> <p>7 A. No.</p> <p>8 Q. Okay. So during those two weeks you took</p> <p>9 the opportunity to familiarize yourself with the</p> <p>10 ship, correct?</p> <p>11 A. Yes.</p> <p>12 Q. Now, what did you do in order to</p> <p>13 familiarize yourself with the ship?</p> <p>14 A. Of course, we would inspect all over the</p> <p>15 ship, so decks, holds, engine room, accommodations.</p> <p>16 Q. Did you go into every cargo hold?</p> <p>17 A. Yes.</p> <p>18 Q. And when you went into each cargo hold, did</p> <p>19 you inspect each level from A, B, C, D, you know,</p> <p>20 from the top deck down to the bottom deck?</p> <p>21 A. Yes.</p> <p>22 Q. And did you examine each piece of equipment</p> <p>23 or gear at each level or each hatch?</p> <p>24 A. Yes.</p> <p>25 Q. And then the cargo hatches on the LUZON</p>
<p style="text-align: right;">27</p> <p>1 A. The chief officer had the deck department,</p> <p>2 and the master, together with the chief engineer,</p> <p>3 runs the entire ship. So it's a more logistic</p> <p>4 approach.</p> <p>5 Q. Okay. When did you actually get to Taiwan?</p> <p>6 A. It was about two weeks before the 31st of</p> <p>7 August, before we took delivery of the ship.</p> <p>8 Q. What did you do during those two weeks?</p> <p>9 A. We familiarized with the vessel.</p> <p>10 Q. Was the construction of the vessel complete</p> <p>11 when you got there two weeks before August 31st?</p> <p>12 A. Yes.</p> <p>13 Q. And in addition to you, who else was there,</p> <p>14 I say from either the crew or from Seatrade?</p> <p>15 A. The chief engineer was with me.</p> <p>16 Q. And who was that?</p> <p>17 A. Chief Engineer Balvert.</p> <p>18 Q. That I would like for you to spell for me,</p> <p>19 please.</p> <p>20 A. B-A-L-V-E-R-T.</p> <p>21 Q. Okay. Who else?</p> <p>22 A. And on the shipyard a Mr. Bulhuis was</p> <p>23 there. It's B-U-L-T-H-U-I-S.</p> <p>24 Q. And who did he work -- who was his company?</p> <p>25 Was he with Seatrade or with somebody else?</p>	<p style="text-align: right;">29</p> <p>1 STRAIT -- and I'm talking about -- there were four</p> <p>2 hatches on the LUZON STRAIT, correct?</p> <p>3 A. Correct.</p> <p>4 Q. Actually, I have marked as Exhibit 8 -- and</p> <p>5 we can lay it out here somewhere.</p> <p>6 MR. WHELAN: This is 8?</p> <p>7 MR. GRUBER: Yeah, the cargo stowage</p> <p>8 plan.</p> <p>9 MR. WHELAN: Stan, why don't we lay it</p> <p>10 out here.</p> <p>11 MR. GRUBER: Not the cargo stowage</p> <p>12 plan. The general arrangement plan.</p> <p>13 MR. WHELAN: We can lay it out there.</p> <p>14 MR. GRUBER: Yeah, that's fine.</p> <p>15 (Discussion off the record)</p> <p>16 Q. (BY MR. GRUBER): Just for the record, the</p> <p>17 document that we have marked as P-8, is this the</p> <p>18 general arrangement plan for the LUZON STRAIT?</p> <p>19 A. Yes.</p> <p>20 Q. And in that document the hull number that's</p> <p>21 assigned to the ship is 730; is that correct?</p> <p>22 A. Correct.</p> <p>23 Q. Okay. Now, we indicated that the ship had</p> <p>24 four cargo hatches, and the top drawing on the</p> <p>25 general arrangement plan shows the ship from a</p>



<p style="text-align: right;">30</p> <p>1 profile arrangement, correct?</p> <p>2 A. Correct.</p> <p>3 Q. And we can see -- starting from the right</p> <p>4 of the ship on the general arrangement plan and</p> <p>5 moving to the left, we can see hatches numbered one,</p> <p>6 two, three, four, correct?</p> <p>7 A. Correct, yes.</p> <p>8 Q. Now, how many deck levels are there inside</p> <p>9 the number one hatch? <i>Forecastle</i></p> <p>10 A. There's three. A <i>forward</i>, A and B.</p> <p>11 Q. Okay. And the number two hatch?</p> <p>12 A. Has four, so A, B, C, D.</p> <p>13 Q. And the three and four hatches?</p> <p>14 A. They also both have four levels, A, B, C</p> <p>15 and D.</p> <p>16 Q. Okay. Now, I see on the general -- again,</p> <p>17 looking at the top, the profile -- at least what</p> <p>18 appears to me to be two what I look -- I assume to be</p> <p>19 some type of cranes. Are they?</p> <p>20 A. Yes. These are two container cranes, so</p> <p>21 one and two.</p> <p>22 MR. WHELAN: And indicating number one</p> <p>23 close to the bow. Number two --</p> <p>24 THE WITNESS: Yes.</p> <p>25 MR. WHELAN: -- furthest away from the</p>	<p style="text-align: right;">32</p> <p>1 A. It's viewing aft.</p> <p>2 Q. All right. If we are looking aft at the</p> <p>3 mid -- so it would be actually the numbers?</p> <p>4 MR. WHELAN: Indicating at about</p> <p>5 between where the E and the A are on the Seatrade?</p> <p>6 THE WITNESS: Looking -- it's 102.</p> <p>7 Q. (BY MR. GRUBER): Okay, I see. Now, going</p> <p>8 down to the second drawing, what is shown? What does</p> <p>9 this show?</p> <p>10 A. It shows a top view on the upper deck of</p> <p>11 the ship.</p> <p>12 Q. Like we would call a bird's-eye view?</p> <p>13 A. Bird's-eye, correct.</p> <p>14 Q. And the drawing on the right of that</p> <p>15 bird's-eye view?</p> <p>16 A. This the same bird's-eye view but down onto</p> <p>17 the forecastle deck, which is higher than the upper</p> <p>18 deck.</p> <p>19 Q. And that's at the number one hatch?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And the third drawing down, what is</p> <p>22 that?</p> <p>23 A. It's another bird's-eye view, but then onto</p> <p>24 what we call the A deck level.</p> <p>25 Q. Okay. Now, I notice -- well, again, just</p>
<p style="text-align: right;">31</p> <p>1 bow, correct?</p> <p>2 THE WITNESS: Yes.</p> <p>3 Q. (BY MR. GRUBER): And we can see from the</p> <p>4 drawing that there are spots for containers to be</p> <p>5 stowed on the actual -- on the main deck of the ship,</p> <p>6 correct?</p> <p>7 A. Yes.</p> <p>8 Q. And that's the purpose for these two</p> <p>9 cranes?</p> <p>10 A. Yes.</p> <p>11 Q. Now, as I understand your testimony, those</p> <p>12 two cranes would normally not be used to discharge</p> <p>13 cargo from inside the cargo holds; is that correct?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Now, moving down to the second</p> <p>16 drawing from the top -- well, actually, before I do</p> <p>17 that, on the right-hand page, alongside of the</p> <p>18 overall profile of the ship, this appears to be like</p> <p>19 a stern view?</p> <p>20 A. It's what we call a cross section.</p> <p>21 Q. A cross section?</p> <p>22 A. Yes.</p> <p>23 Q. What is intended to be shown on this?</p> <p>24 A. It's a cross section of the midship areas.</p> <p>25 Q. Ah.</p>	<p style="text-align: right;">33</p> <p>1 to be complete, I'm sorry, and the drawing on the</p> <p>2 right of that?</p> <p>3 A. It's a cross section of the deck house</p> <p>4 number two, which is adjoined in here.</p> <p>5 Q. When you say "here," that's between the</p> <p>6 number three and four hatches?</p> <p>7 A. Yes, correct.</p> <p>8 Q. Okay. But looking at the bird's-eye view</p> <p>9 of the second deck, that's the third drawing down, I</p> <p>10 see what appears to me to be the number two hatch, a</p> <p>11 smaller square on the right-hand side. Do you see</p> <p>12 what I'm talking about?</p> <p>13 A. Correct.</p> <p>14 Q. What does that represent?</p> <p>15 A. This is the hatch cover, which allows the</p> <p>16 cargo cage to lower down into the hole.</p> <p>17 Q. Is that the location of the elevator?</p> <p>18 A. Correct.</p> <p>19 Q. And while we're standing over here, could</p> <p>20 you explain to me how the loading and discharging of</p> <p>21 cargo in the cargo holds would go in the number two</p> <p>22 hatch. What would be the procedure?</p> <p>23 A. Okay. If I just refer to the cargo, the</p> <p>24 procedure would be for hold two is to unlock side</p> <p>25 door number two.</p>

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1 Q. All right. And you're pointing to door  
2 number two on the top drawing.  
3 A. And then to open side door number two, to  
4 lock that door.  
5 Q. When you say lock it, you mean lock it in  
6 an open position?  
7 A. Yeah, lock it in an open position so it  
8 cannot fall back.  
9 Q. How do you do that?  
10 A. It has hydraulic plungers with two locks  
11 there inserted into the supports, and then it's fixed  
12 in place.  
13 Q. Okay.  
14 A. The next procedure would be to hoist the  
15 pallet cage off the hatch, and then all the hatch  
16 covers can be opened by the controls inside of the  
17 deck house, so the hatch covers for the top hatch, A  
18 deck, B deck and C deck.  
19 Q. Okay.  
20 A. Then the following step during loading  
21 would be to drive the trolley with the pallet cage  
22 connected to the outside of the ship, lower the cage  
23 onto the quay, where then the cargo could be loaded  
24 into the pallet cage, after which the cargo would be  
25 hoisted up.

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1 Q. By what means?  
2 A. There's a ~~hydraulic~~ or electric winch  
3 system on the trolley which hoists the pallet cage  
4 up. When it's fully up, then the trolley can drive  
5 the pallet cage into the ship, and then lower it down  
6 through the hatch coverings into the hold. There the  
7 cargo can be taken out from the pallet cage and  
8 stowed on the decks.  
9 Q. That would be done normally by forklift  
10 trucks?  
11 A. Yes. Forklift trucks or what we call  
12 pallet jacks.  
13 Q. Right. Now, you have been referring to  
14 pallet cage?  
15 A. Correct.  
16 Q. What are the dimensions of the pallet cage?  
17 I mean, when we say "pallet cage," are we talking  
18 about something -- well, you tell me.  
19 MR. WHELAN: Your best estimate as to  
20 the size.  
21 THE WITNESS: My estimate is that it's  
22 six meters long and three meters deep.  
23 Q. (BY MR. GRUBER): Okay.  
24 A. With a height of 2.5 meters.  
25 Q. So how many pallets can go into the pallet

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1 cage at one time?  
2 A. Normally eight.  
3 Q. Okay. I have a picture.  
4 A. Right here on the pallets.  
5 Q. Let me see if I can get it without killing  
6 myself here.  
7 MR. GRUBER: And we will mark this as  
8 P-31 when we get a chance.  
9 Q. (BY MR. GRUBER): This photograph I guess  
10 shows the -- would be the starboard side of the ship,  
11 the LUZON STRAIT?  
12 A. Correct.  
13 Q. And does it illustrate some of what you  
14 have been telling me about?  
15 A. It shows the side door in an open position,  
16 the trolley on the outside of the ship with the  
17 pallet cage below the trolley, and there's cargo  
18 inside of the pallet cage.  
19 Q. I guess you can't tell from that whether  
20 it's being lowered or raised?  
21 A. No, I can't tell whether --  
22 MR. WHELAN: Is this a new photograph?  
23 MR. GRUBER: This one was --  
24 MR. WHELAN: I'm just asking. This  
25 was one that was taken by the --

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1 MR. GRUBER: Yeah, exactly, if you  
2 know who it was.  
3 MR. WHELAN: -- whoever it was, one of  
4 the longshoremen?  
5 MR. GRUBER: Right.  
6 Q. (BY MR. GRUBER): And the side door that  
7 we're looking at here, can you tell what hatch that  
8 would be for?  
9 A. The first side door is for hold number one.  
10 The second is for hold number two.  
11 Q. They look pretty close together?  
12 A. Yeah.  
13 MR. GRUBER: Okay. We will just put  
14 this over here. When we take a break, we will mark  
15 it as P-31.  
16 Q. (BY MR. GRUBER): All right. Now, during  
17 your inspections, during those two weeks that you  
18 were in Taiwan before signing on, when you went into  
19 the cargo hatches, did you learn that there was more  
20 than one way to get -- in hatch number two for  
21 example, to get from the main deck down to level D,  
22 the D level?  
23 A. Yes.  
24 Q. And how many different ways were there?  
25 A. Two.

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<p style="text-align: right;">38</p> <p>1 Q. And are either of those accessways actually 2 shown anywhere on the general arrangement plan? 3 A. Yes, they are. 4 Q. Good. Then show me. 5 MR. WHELAN: Do you want him to mark 6 the -- 7 MR. GRUBER: That would be wonderful, 8 if we have something appropriate. 9 MR. JANSEN: Here. 10 MR. WHELAN: Let's get a red pen so he 11 can -- 12 THE WITNESS: So the forward access 13 would be -- 14 Q. (BY MR. GRUBER): You are circling that. 15 Actually, you put a square around the second deck 16 level and again on the third deck level and on the 17 fourth deck level. Now -- 18 MR. WHELAN: If you could so we are 19 clear on this, could you do a little arrow to each of 20 the -- teeny little arrow to each of those squares 21 that you put on so we are not trying to figure out 22 what the squares are. 23 So the witness is putting red arrows 24 to the outlined red squares which represent the 25 accesses, the number two at the forward end; is that</p>	<p style="text-align: right;">40</p> <p>1 and you have used the term "cooler" -- well, actually 2 it's written in there. It says "cooler space." 3 A. Yeah. 4 Q. So that's fine. What machinery or 5 equipment, if any, is in the cooler space at each 6 deck level? 7 A. At each deck level there is a cooling 8 battery and ventilation fans on top. So the 9 ventilation fans will force the cooling air through 10 the cooling -- the cooling battery. 11 Q. Is it possible to have the cooling system 12 working in the D level but not working in the A and B 13 level? 14 A. Yes. 15 Q. In order to engage the cooling system, is 16 it necessary to actually do something at the actual 17 level that's to be cooled? 18 In other words, if I wanted to start 19 the cooling system on the C level, would I actually 20 have to go to the cooler space at the C level to do 21 that? 22 A. No. 23 Q. Where could I do that? 24 A. It can be operated from the engine control 25 room.</p>
<p style="text-align: right;">39</p> <p>1 correct? 2 THE WITNESS: Yeah. So now they all 3 have a red square with an arrow representing the 4 forward accesses, so that the second access aft -- 5 Q. (BY MR. GRUBER): Before we get to the -- 6 let's just stay with the forward for a minute. 7 Just so again we're clear, where it 8 says second deck, third deck and fourth deck, are we 9 referring to the A, B, and C levels? 10 A. Yes. 11 Q. So could you write under second deck A, 12 under third deck B and under fourth deck beck C, if 13 that's correct. 14 A. Uh-huh. 15 (Witness complies) 16 Q. All right. Now, let's talk about the aft 17 access area, whether there's anything on the drawing 18 that indicates that? 19 A. I will indicate those as well. They are 20 situated inside of the cooler room space. 21 MR. WHELAN: And, again, the witness 22 is putting red boxes around those accesses with 23 little arrows pointing to them. 24 Q. (BY MR. GRUBER): Right. Now, at the C 25 level, I am going to ask you to do one more thing,</p>	<p style="text-align: right;">41</p> <p>1 Q. Okay. And by the same term, could I turn 2 it off from the engine room control room? 3 A. Yes. 4 Q. And are there also controls at each cooler 5 space to turn that equipment on and off? 6 A. No. 7 Q. Is there anything that has to be done by 8 the ship's crew in those cooler spaces? 9 A. Only when maintaining or preparing the 10 equipment or performing checks, but regular operation 11 can be from the engine control room, so only 12 cleaning, inspections, those type things. 13 Q. When you say performing checks, what kind 14 of checks are we talking about? 15 A. See if the cooler is intact, it's not 16 leaking, and in case of refrigerated cargo at very 17 low temperatures, to see if it's not iced up where it 18 would need defrosting. 19 Q. Is there regular maintenance that has to be 20 performed as far as that type of equipment in these 21 cooling spaces? 22 A. Yes. 23 Q. How frequently is that maintenance 24 performed? 25 A. The inspection maintenance would be to</p>

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<p style="text-align: right;">42</p> <p>1 check up on the valves to see if they operate freely</p> <p>2 and are well greased.</p> <p>3 Q. How often is that done?</p> <p>4 A. Every voyage prior to loading.</p> <p>5 Q. When you say "every voyage," you mean in</p> <p>6 every port?</p> <p>7 A. No. Characteristically a reefer vessel</p> <p>8 makes a ballast voyage with maybe dry cargo in it, in</p> <p>9 containers, and during that voyage it prepares for</p> <p>10 the next load of reefer cargo. So in preparing for</p> <p>11 the reefer cargo, these checks would be performed.</p> <p>12 Q. Okay. So now you have pointed out to us</p> <p>13 that there are two different ways of getting from the</p> <p>14 main deck down to the D level in the number two</p> <p>15 hatch, at the forward end and at the aft end in the</p> <p>16 cooler space, correct?</p> <p>17 A. Correct.</p> <p>18 Q. Was that also true at the number three</p> <p>19 hatch and the number four hatch?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Now, could you -- it seems to me</p> <p>22 that like in the number three hatch there's a</p> <p>23 different location for the -- at the forward end; is</p> <p>24 that correct?</p> <p>25 A. Yes, that's correct.</p>	<p style="text-align: right;">44</p> <p>1 access forward.</p> <p>2 Q. Okay. In looking at the number four hatch</p> <p>3 where the elevator is forward, where is the forward</p> <p>4 access to the hatch levels?</p> <p>5 A. The forward access is the inside the cooler</p> <p>6 space.</p> <p>7 Q. And in number four the cooler space is</p> <p>8 forward?</p> <p>9 A. Forward.</p> <p>10 Q. Okay. So where is the access space then on</p> <p>11 the aft end?</p> <p>12 A. It's aft, indicating here on the drawing.</p> <p>13 Q. Okay. Can you do that all of the way down?</p> <p>14 A. Yeah.</p> <p>15 MR. WHELAN: So the witness is again</p> <p>16 putting squares around the access locations for the</p> <p>17 aft accesses at number four. And at A through C</p> <p>18 accesses, putting red arrows pointing to those.</p> <p>19 Q. (BY MR. GRUBER): So that if I'm correct --</p> <p>20 well, let me -- I haven't completed the circle here.</p> <p>21 In the number one hatch, were there</p> <p>22 also two accessways in and out of the cargo holds?</p> <p>23 A. Yes, there were.</p> <p>24 Q. Okay. Could you circle those, please.</p> <p>25 MR. WHELAN: The witness is again</p>
<p style="text-align: right;">43</p> <p>1 Q. And then can you put a square around that,</p> <p>2 an arrow at the forward end of number three.</p> <p>3 (Witness complies)</p> <p>4 MR. WHELAN: The witness is again</p> <p>5 putting squares around the accesses at the forward</p> <p>6 end of number three with arrows pointing to those</p> <p>7 squares, to where the accesses are located.</p> <p>8 Q. (BY MR. GRUBER): Now, is the location of</p> <p>9 the accessways at the forward end of the number three</p> <p>10 different than the accessways at the forward end of</p> <p>11 number two because of the location of the freight</p> <p>12 elevator, I will call it?</p> <p>13 A. Yes.</p> <p>14 Q. And then the number three hatch, instead of</p> <p>15 being at the forward end of the hatch, it's at the</p> <p>16 after end of the hatch, correct?</p> <p>17 A. Yes.</p> <p>18 Q. Was there any reason for that that you know</p> <p>19 of in terms of the design of the ship?</p> <p>20 A. The reason is that on number three and</p> <p>21 four, the elevators are positioned together and on</p> <p>22 numbers one and two, they are together. So in hatch</p> <p>23 number three the elevator is <del>on</del> <sup>AFT</sup> forward there's</p> <p>24 a position for the access, and in number two the</p> <p>25 elevator's forward and there's no space to fit the</p>	<p style="text-align: right;">45</p> <p>1 putting squares around the accessways on the number</p> <p>2 one hatch, the forward end, and aft end putting red</p> <p>3 squares with red arrows pointing to them.</p> <p>4 Q. (BY MR. GRUBER): Okay. Then it appears to</p> <p>5 me then that at the B and C levels of the number two</p> <p>6 hatch, the forward access hatches essentially are</p> <p>7 away from the bulkheads and are out into the hatch</p> <p>8 itself; is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. And that is also true at the A level of the</p> <p>11 second deck?</p> <p>12 A. Cargo hold one, yes.</p> <p>13 Q. Cargo hold -- I'm sorry, cargo hold one.</p> <p>14 Other than that, the accessways that</p> <p>15 are not in cooler spaces are all -- like we look at</p> <p>16 number three at the forward end, they are all</p> <p>17 adjacent to a bulkhead, correct?</p> <p>18 A. Yes.</p> <p>19 Q. And that is also true at the aft end of</p> <p>20 number four; is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Now, you used the forward accessway</p> <p>23 at the number two hatch during those two weeks that</p> <p>24 you were looking over the vessel, but one time or</p> <p>25 another you used that forward end to get from the</p>

<p>46</p> <p>1 main deck all the way down to the D deck level?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And how many times would you have</p> <p>4 done that?</p> <p>5 MR. WHELAN: Using that access or any</p> <p>6 access?</p> <p>7 Q. (BY MR. GRUBER): Yes, that access.</p> <p>8 A. I cannot recall an exact number of times,</p> <p>9 but I reckon that it's between five to ten times.</p> <p>10 Q. Okay. And would you have also done the</p> <p>11 same thing on the number three hatch and the number</p> <p>12 four hatch in terms of using the accesses that were</p> <p>13 not in a cooler space?</p> <p>14 A. Yes.</p> <p>15 Q. So far as you understood, if you had an</p> <p>16 understanding, why were there two accessways in and</p> <p>17 out of each hatch?</p> <p>18 A. The one in the cooler room is there to be</p> <p>19 able to go down during any operation, as well when</p> <p>20 there's cargo in the hold. The other access is there</p> <p>21 to go down from the deck house when there's no cargo,</p> <p>22 so during any normal operation, whenever there's no</p> <p>23 cargo.</p> <p>24 Q. Okay. Now, at the B and C deck levels of</p> <p>25 the number two hatch at the forward accessway, did</p>	<p>48</p> <p>1 A. No.</p> <p>2 Q. No?</p> <p>3 A. It's put in place when we're preparing for</p> <p>4 cargo to be taken into that deck.</p> <p>5 MR. WHELAN: To be loaded, when you</p> <p>6 say taken into the deck?</p> <p>7 THE WITNESS: Yeah, to be loaded.</p> <p>8 Q. (BY MR. GRUBER): Okay. In other words --</p> <p>9 A. Then that needs to be flush.</p> <p>10 Q. Right.</p> <p>11 A. That needs to be put -- before that time</p> <p>12 you might be taking it out the next day.</p> <p>13 Q. Okay. But it certainly needs to be in</p> <p>14 place if you are going to be stowing cargo at that</p> <p>15 deck level?</p> <p>16 A. Yes.</p> <p>17 Q. Now, once that cargo is discharged from</p> <p>18 that deck level and it's necessary to go into the</p> <p>19 next deck level, then it has to be taken out of</p> <p>20 place?</p> <p>21 A. Yes.</p> <p>22 Q. And how is that physically done?</p> <p>23 A. The grating is lifted out. And usually the</p> <p>24 crew has this grating puller, which is a steel bar</p> <p>25 with a little lift under the edge and you lift it</p>
<p>47</p> <p>1 you observe that the access hatches -- we will call</p> <p>2 them access hatch covers. Is that what you said? Is</p> <p>3 that the term that you --</p> <p>4 A. Or manhole.</p> <p>5 Q. Or manhole, okay. Let's say access hatch</p> <p>6 covers for now.</p> <p>7 That these access hatch covers at the</p> <p>8 B and C deck level, when they were not in use, were</p> <p>9 they covered by something?</p> <p>10 A. When they are not in use, they are covered</p> <p>11 by what we call a grating.</p> <p>12 Q. Okay. Now, I think I have a photograph of</p> <p>13 that. I'm sorry we're standing up so long here, but</p> <p>14 this is good. Let's see --</p> <p>15 (Discussion off the record)</p> <p>16 Q. (BY MR. GRUBER): Okay. I have two photos</p> <p>17 here which we will mark as P-18A and P-18B. Do these</p> <p>18 photographs show that cover that you mentioned</p> <p>19 earlier?</p> <p>20 A. Yes. These photos show this grating.</p> <p>21 Q. Okay. And when the access hatch cover at</p> <p>22 either the B or C deck levels of the forward end of</p> <p>23 the number two hatch are not in use, this grating</p> <p>24 would be in place as part of the overall grating</p> <p>25 covering the deck at that level, correct?</p>	<p>49</p> <p>1 out.</p> <p>2 Q. Okay.</p> <p>3 A. This one has handles so you can retract it</p> <p>4 and shift it sideways.</p> <p>5 Q. All right. And you are pointing at the two</p> <p>6 handles, which will be in the Photograph P-18A,</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Now, do you remember that these</p> <p>10 photographs were taken several years -- this was</p> <p>11 taken --</p> <p>12 MR. WHELAN: March 2005.</p> <p>13 Q. (BY MR. GRUBER): March 2005. Do you</p> <p>14 remember whether the grating that actually covered</p> <p>15 the access hatch at the forward end of 2C had these</p> <p>16 handles?</p> <p>17 A. No, I do not recall that actual grating had</p> <p>18 those handles.</p> <p>19 Q. Okay. In any event, whether it's gotten</p> <p>20 out by means of that crowbar device that you</p> <p>21 mentioned or by the handles, is that something that</p> <p>22 would be done by the ship's crew?</p> <p>23 A. Yes.</p> <p>24 Q. Any particular rating, AB, or who would do</p> <p>25 that work?</p>



<p>50</p> <p>1 A. Normally the AB.</p> <p>2 Q. Okay. So when you went in and out of the</p> <p>3 forward accessway of the number two hatch during</p> <p>4 those two weeks, the grating was obviously out of --</p> <p>5 you know, was not in place, correct?</p> <p>6 A. Correct.</p> <p>7 Q. Okay. And was the hatch lid at each level</p> <p>8 opened?</p> <p>9 A. Yes.</p> <p>10 Q. And was it secured?</p> <p>11 A. Yes.</p> <p>12 Q. And did you look --</p> <p>13 MR. WHELAN: Can we stop there for a</p> <p>14 second, just so we -- interchangeably in this</p> <p>15 deposition will be hatch cover/hatch lid, just so</p> <p>16 everyone understands --</p> <p>17 MR. GRUBER: I'm sorry.</p> <p>18 MR. WHELAN: It doesn't matter.</p> <p>19 You understand lid to be the cover as</p> <p>20 well, right?</p> <p>21 THE WITNESS: Yeah.</p> <p>22 MR. WHELAN: So don't worry about it.</p> <p>23 Q. (BY MR. GRUBER): And did you personally</p> <p>24 look at the access hatch lid at the forward end at</p> <p>25 the 2C level during those two weeks that you were</p>	<p>52</p> <p>1 red.</p> <p>2 A. No.</p> <p>3 Q. Do you remember what color it was painted</p> <p>4 then?</p> <p>5 A. It was gray as the rest of the steel</p> <p>6 constructions in all of the decks.</p> <p>7 Q. Okay. So it didn't stand out the way it</p> <p>8 does in this photograph?</p> <p>9 A. No.</p> <p>10 Q. Now, I'm showing you some other</p> <p>11 photographs. There are 19 of them, and they are</p> <p>12 marked Exhibit FF, and then each photograph has a</p> <p>13 number at the bottom.</p> <p>14 Did you have a chance to look at these</p> <p>15 before the deposition?</p> <p>16 MR. WHELAN: Let him look at them</p> <p>17 first. But in the meantime, I want to --</p> <p>18 THE WITNESS: I didn't look at these,</p> <p>19 but similar photos.</p> <p>20 Q. (BY MR. GRUBER): Okay. That's --</p> <p>21 MR. WHELAN: Hold on. As a continuing</p> <p>22 objection, I know we're reserving, but we are</p> <p>23 objecting to the introduction into evidence obviously</p> <p>24 of anything with the handles present, so --</p> <p>25 MR. GRUBER: Yeah, I understand.</p>
<p>51</p> <p>1 going up and down to familiarize yourself with the</p> <p>2 equipment?</p> <p>3 A. In the course of familiarization, we looked</p> <p>4 at all hatch cover lids and also this one.</p> <p>5 Q. And were you able to determine the nature</p> <p>6 of the holding device or securing device for that</p> <p>7 hatch lid? I'm talking now about the forward end of</p> <p>8 the 2C.</p> <p>9 A. What do you mean by nature?</p> <p>10 Q. What did it look like?</p> <p>11 A. Oh, yes.</p> <p>12 Q. What was it?</p> <p>13 A. It -- it was a steel hook device.</p> <p>14 Q. A hook-and-eye type of --</p> <p>15 A. Hook-and-eye.</p> <p>16 Q. Okay. Now, I'm going to show you a</p> <p>17 photograph Mr. Whelan provided to me which already</p> <p>18 has Exhibit DD on it. Do you see?</p> <p>19 Does that show the hook-and-eye type</p> <p>20 of device that was on the forward access hatch cover</p> <p>21 at the level 2C during those two weeks that you were</p> <p>22 going up and down the hatches?</p> <p>23 A. Yes.</p> <p>24 Q. Was it painted this color then that is</p> <p>25 depicted in the picture? It seems to be orange or</p>	<p>53</p> <p>1 MR. WHELAN: So any of the -- you</p> <p>2 know, as a continuing objection, any of the</p> <p>3 photographs that show the handles or the other</p> <p>4 securing devices will we have an objection to based</p> <p>5 on subsequent remedial matters.</p> <p>6 THE COURT REPORTER: Would this be a</p> <p>7 good time for a break?</p> <p>8 MR. GRUBER: Sure.</p> <p>9 (Recess taken)</p> <p>10 MR. GRUBER: All right. Back on the</p> <p>11 record.</p> <p>12 Q. (BY MR. GRUBER): Now, if we look at the FF</p> <p>13 photograph, No. 9, and again, these were photographs</p> <p>14 that I understand were taken of the forward access</p> <p>15 hatch cover at the 2C level, okay?</p> <p>16 Now, this photograph shows a portion</p> <p>17 of the ladder coming out of the 2D hold, is that</p> <p>18 correct, and it shows the underside of the forward</p> <p>19 access lid at 2C?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And when you personally climbed up</p> <p>22 out of the number -- excuse me, out of the D level up</p> <p>23 to the C level, what means did you use to get</p> <p>24 yourself off of the ladder and onto the C level?</p> <p>25 A. First I had to hold onto the ladder and</p>



<p style="text-align: right;">54</p> <p>1 then when I reach the coaming, I grab the coaming 2 rail and step out sideways. 3 Q. What's the -- when you say the -- 4 A. This rail and this rail. 5 MR. WHELAN: Pointing to on the deck 6 next to the gratings. 7 Q. (BY MR. GRUBER): Can you take this red 8 marker and mark what you are talking about. 9 (Witness complies) 10 THE WITNESS: Sideways out of that. 11 Q. (BY MR. GRUBER): Okay. Well, there are no 12 actual handholds there, are there -- 13 A. No. 14 Q. -- for that purpose? 15 A. No, there are not. 16 Q. You did not grab hold of the hatch lid 17 itself? 18 A. Normally not. 19 Q. Was there some reason you didn't grab hold 20 of the hatch lid? 21 A. No particular reason. Just always my 22 routine of getting out of manholes, I grab the 23 coaming and I step out sideways. 24 Q. At this time there was no actual handhold 25 on the underside of the hatch lid itself, was there?</p>	<p style="text-align: right;">56</p> <p>1 that this is something that a normal person might do 2 in getting out of the 2D level; that is, grab the 3 hatch lid to steady themselves? 4 A. Yes. 5 Q. Okay. Now, at the C -- excuse me. 6 At the number three hatch and the 7 number four hatch, you did not have a similar 8 situation with the access hatch lid being out in the 9 middle of the hatch, did you? 10 A. Correct. 11 Q. So in those situations, what method was 12 used to secure the access hatch lid that was not in 13 the cooler space in an open position? 14 A. Well, those hatch lids had the similar 15 hook-and-eye securing device. 16 Q. But was the bulkhead used with any of those 17 hatch lids in connection with securing the hatch lid? 18 A. I'm sorry, I didn't understand. 19 Q. At the number three hatch and the number 20 four hatch -- 21 A. Yeah. 22 Q. -- where we see the access hatch lids were 23 against the bulkhead, either at the -- 24 A. Yeah. 25 Q. -- the forward end of number three or the</p>
<p style="text-align: right;">55</p> <p>1 A. There was not. 2 3 4 5 6 7 8 Q. Besides yourself, did others go in and out 9 of the 2D level at the forward end of the number two 10 hatch during those two weeks? 11 A. Yes. 12 Q. Who else did that? 13 A. The chief engineer and Mr. Bulthuis and the 14 Dutch shipping inspectors, the commissioning 15 engineers for the elevators. 16 Q. Uh-huh. 17 A. And the shipyard personnel. 18 Q. And did you observe those individuals? 19 A. Yes. 20 Q. And how did they -- what method did they 21 use to get from the ladder up to the deck level of 22 2C? In other words, did any of them hold onto the 23 hatch lid itself? 24 A. Yes. 25 Q. Okay. So did it become apparent to you</p>	<p style="text-align: right;">57</p> <p>1 after end of number four, were the hook-and-eye -- 2 was any part of the hook-and-eye secured to the 3 bulkhead? 4 A. As I recall, most of those had a separate 5 stanchion with the hook on it. 6 Q. A separate stanchion? 7 A. Yeah. 8 Q. And the stanchion itself had a hook on it? 9 A. Yeah. 10 Q. And the eye that the hook went into, was 11 that on the hatch lid? 12 A. Correct. 13 Q. I see. Was the size of those hooks and 14 eyes different than the hook-and-eye that was used at 15 the forward end on 2C? 16 A. As I recall, no. They were all -- as I 17 recall, they were same or similar. 18 Q. Now, you can see in this Photograph No. 4, 19 which is part of Exhibit FF -- oh, is that 9? You're 20 right. 21 MR. WHELAN: We referred to it as 9 22 before. 23 MR. GRUBER: Did we? 24 MR. WHELAN: Yes. 25 MR. GRUBER: Okay.</p>

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1 Q. (BY MR. GRUBER): All right. When you come  
2 up out of 2, you cannot see the hook-and-eye because  
3 it's on the other side of the hatch lid, correct?

4 A. Correct.

5 Q. On the forward -- on the hatch covers at  
6 three and four, which were against the bulkhead and  
7 you said that the hook was on an adjacent stanchion,  
8 if you were coming up out of the level below, would  
9 you be able to see the hook on the stanchion as you  
10 were coming up?

11 A. No.

12 Q. No. Where would the stanchion have been  
13 located behind the hatch cover?

14 A. Behind the lid. Behind the open lid.

15 Q. But was the hook on the stanchion that was  
16 behind the open lid, did it fit into an eye at the --  
17 at what would have been the top portion of the lid or  
18 down at the bottom of the lid?

19 A. I can only -- I cannot exactly recall the  
20 height of this stanchion, so I cannot recall where  
21 this hook-and-eye would be positioned, if it was high  
22 or low.

23 Q. All right. These type of details that we  
24 have been talking about would not be shown in the  
25 general arrangement plan. Am I correct about that?

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1 A. Correct.

2 Q. Now, I was presented with some plans by  
3 Mr. Whelan which have been marked as Exhibit AA.

4 MR. WHELAN: Can we do those sitting  
5 down, or are you going to continue on with this?

6 MR. GRUBER: I think we can do them  
7 sitting -- it might be better just to finish this  
8 standing up and then we can sit down, rather than my  
9 reaching across the table and everything.

10 MR. WHELAN: Okay.

11 Q. (BY MR. GRUBER): First of all, are you  
12 familiar with these plans, or have you seen them?

13 A. Yes.

14 Q. The general arrangement plan that we have  
15 been looking at, P-8, was this a plan that had been  
16 completed that you had access to during those two  
17 weeks that you were there?

18 A. Yes.

19 Q. And how about these drawings, were they  
20 available for you?

21 A. No.

22 Q. Okay. The first page of Exhibit AA, it  
23 says traffic AA apostrophe -- I'm sorry, ARR'T and  
24 practice in C/H and tank. Can you tell me what that  
25 stands for, traffic what?

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1 A. Traffic arrangement.

2 Q. Okay.

3 A. Practice in cargo hold.

4 Q. Now, as we go through -- and this again is  
5 for Hold No. 730, correct --

6 A. Yes.

7 Q. -- the LUZON STRAIT. All right. Now, the  
8 first several -- the first one that you -- well, the  
9 first several pages, just in general, what's the  
10 information that's on there?

11 A. Page 2 is the fitted list of ladders, and  
12 it lists the different ladders fitted on board, where  
13 they are, their designated purpose, for which area,  
14 like aft B10, and their height, breadth, and  
15 particulars.

16 Q. Is there any reference there to the ladder  
17 leading from 2D to 2C at the forward end?

18 A. Not on this page.

19 Q. Maybe it's on a subsequent page.

20 A. On Page 3 there's mention of two ladders in  
21 cargo number two. Four ladders, correct.

22 Q. Could you put a checkmark alongside of  
23 those four.

24 (Witness complies)

25 Q. (BY MR. GRUBER): And going on -- and these

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1 pages that make reference to drawings, are there any  
2 that relate to that ladder? If you could --

3 A. Yeah, Page 4 there's a ladder. There's  
4 another two ladders on number two mentioned here.

5 (Witness indicates)

6 MR. WHELAN: The ones on that page  
7 that say 2F, row two at the bottom, are they -- would  
8 that be fuel oil tank or --

9 MR. GRUBER: Fuel oil tank?

10 MR. WHELAN: -- or you're not -- you  
11 don't have those percentages?

12 THE WITNESS: No. So that's number  
13 two CH, for cargo holders. So on Page 5 I see one,  
14 two, yeah, two ladders before the deck.

15 MR. WHELAN: Just so the record's  
16 clear, the witness has put red checks next to all of  
17 the ladders he's referring to in his testimony in  
18 number two cargo hold.

19 THE WITNESS: Yeah.

20 Q. (BY MR. GRUBER): Okay. Now, this next  
21 drawing, this is a drawing that makes reference to an  
22 access hatch lid which would be up on the weather  
23 deck or the main deck, correct?

24 A. The weather deck, that's correct.

25 Q. So this is not the one that we are

<p style="text-align: right;">62</p> <p>1 interested in?</p> <p>2 MR. WHELAN: That's on Page 7.</p> <p>3 Q. (BY MR. GRUBER): Yes. And Page 8, again,</p> <p>4 access hatch and deck house, that's not what we're</p> <p>5 talking about here, so we'll move on.</p> <p>6 Page 9, uninsulated access hatch.</p> <p>7 Now, the hatch lids at the forward end of the cargo</p> <p>8 holds in number two, were they uninsulated?</p> <p>9 A. In the A and C deck, yes. In the B deck,</p> <p>10 they were insulated.</p> <p>11 Q. But if we are talking about the hatch</p> <p>12 lid -- the access hatch lid at the forward end of the</p> <p>13 2C level --</p> <p>14 A. Would be uninsulated.</p> <p>15 Q. So this would be a drawing of that</p> <p>16 particular hatch lid, correct?</p> <p>17 A. Yes.</p> <p>18 MR. WHELAN: Referring to Page 9.</p> <p>19 Q. (BY MR. GRUBER): Yes. And this would be</p> <p>20 the dimensions of that looking at it from a</p> <p>21 bird's-eye view?</p> <p>22 A. Yes.</p> <p>23 MR. WHELAN: At the bottom is the</p> <p>24 bird's-eye. What's the top?</p> <p>25 MR. GRUBER: The top view is this</p>	<p style="text-align: right;">64</p> <p>1 lids in the cooler spaces all have been insulated?</p> <p>2 A. No. Also there would have been the system</p> <p>3 of A and C, that uninsulated, and B, that insulated.</p> <p>4 Q. Okay. And, again, in this drawing on</p> <p>5 Page 10, there's nothing on the drawing to show the</p> <p>6 way -- or you tell me if there is, to show the way in</p> <p>7 which that hatch lid would be secured in an open</p> <p>8 position, is there?</p> <p>9 A. There's none.</p> <p>10 Q. Okay. Now, Page 11 is just entitled "Steel</p> <p>11 Vertical Ladder and Cargo Hold." Is this just a</p> <p>12 drawing of the ladder itself?</p> <p>13 A. Yes.</p> <p>14 Q. Okay.</p> <p>15 MR. WHELAN: Now, you're not asking</p> <p>16 him whether that's the one in question, are you?</p> <p>17 MR. GRUBER: Well, that's a good</p> <p>18 question.</p> <p>19 MR. WHELAN: Maybe the way to do this</p> <p>20 is to --</p> <p>21 THE WITNESS: Check this.</p> <p>22 Q. (BY MR. GRUBER): Can you tell whether this</p> <p>23 would be a drawing of the ladder leading from -- the</p> <p>24 dimensions of the ladder leading from 2D to 2C at the</p> <p>25 forward end?</p>
<p style="text-align: right;">63</p> <p>1 cross view.</p> <p>2 Q. (BY MR. GRUBER): Okay. Now, looking at the</p> <p>3 bird's-eye view at the bottom, where it says "locking</p> <p>4 device," is that referring to what I call a "dog"?</p> <p>5 A. Correct.</p> <p>6 Q. Which locks the hatch lid in place when</p> <p>7 it's in a down, secured position?</p> <p>8 A. Yes.</p> <p>9 Q. It does not refer to that hook-and-eye that</p> <p>10 we were talking about, correct?</p> <p>11 A. Correct.</p> <p>12 Q. Are you able to determine anywhere on this</p> <p>13 drawing whether there's any reference to the device</p> <p>14 that would be used to hold this hatch lid in place</p> <p>15 when it was open?</p> <p>16 A. As I see, there's no reference to that.</p> <p>17 Q. Okay. But you knew that it was a</p> <p>18 hook-and-eye that was used for that purpose?</p> <p>19 A. Yes.</p> <p>20 Q. Now, Page 10, insulated access hatch, this</p> <p>21 be would be for the -- for example, you said that the</p> <p>22 B level in number two, it would have been insulated,</p> <p>23 correct?</p> <p>24 A. Correct.</p> <p>25 Q. And would the hatch lids -- access hatch</p>	<p style="text-align: right;">65</p> <p>1 A. You would have to go back to the index.</p> <p>2 MR. WHELAN: To the checkmarks?</p> <p>3 MR. JANSEN: To the checkmarks, yeah.</p> <p>4 This is 35, 36. 35 is not listed here.</p> <p>5 MR. WHELAN: Hold on a second.</p> <p>6 (Discussion off the record)</p> <p>7 THE WITNESS: 46 is mentioned, but 45</p> <p>8 is not. 55 and 56 are mentioned. 77, 78 are not</p> <p>9 mentioned. So we have three.</p> <p>10 Q. (BY MR. GRUBER): So can you --</p> <p>11 A. They are here.</p> <p>12 MR. WHELAN: Can I just say something</p> <p>13 first? The numbers that the witness is saying, 45,</p> <p>14 36, 46, et cetera, match up to the far left-hand</p> <p>15 column of Exhibit AA on the various pages in which he</p> <p>16 has referred to as the index.</p> <p>17 MR. GRUBER: Right. I have --</p> <p>18 MR. WHELAN: First there is the</p> <p>19 letters in all caps VFS, and then those are the</p> <p>20 numbers that the witness is referring to; is that</p> <p>21 correct?</p> <p>22 THE WITNESS: Correct.</p> <p>23 Q. (BY MR. GRUBER): All right. Then are you</p> <p>24 saying that the ladders -- the two ladders that are</p> <p>25 shown on Page 11 are not similar or not the -- did</p>

<p>66</p> <p>1 not depict the ladder leading from 2D to 2C at the 2 forward end? 3 A. That has to be checked. They are there. 4 Q. Okay. 5 A. Because under fourth deck. 6 MR. WHELAN: On Page 5? 7 THE WITNESS: On Page 5 the index 8 ladders VFS 77 and VFS 78 are the ladders underneath 9 the fourth deck, so this is the ladder going from D 10 to C. It's not mentioned on Page 11. 11 Q. (BY MR. GRUBER): All right. Let's go to 12 Page -- the next page. 13 Is it mentioned on Page 12? 14 A. Yes. 77, 78. 15 Q. Okay. And then that's a side view? 16 A. Yes, a side view of the ladder, correct. 17 Q. How many rungs on that ladder? 18 A. I count here nine, but there's a break in 19 the drawing, so there might be more. I think there 20 should be nine. If it's 300 mill between the rungs, 21 then nine by 300 makes for 2,700 millimeters total. 22 So that would be in conformity with this total 23 height, as mentioned here in the index. 24 Q. Okay. Now, going to Page 13, what's shown 25 there? What's in that drawing?</p>	<p>68</p> <p>1 A. Yes. 2 Q. But nonetheless, obviously you were 3 familiar with the concept of a handhold that is 4 something for a person coming up out of the ladder to 5 grab onto in order to assist themselves to step onto 6 the next deck level; is that correct? 7 MR. WHELAN: Object to the form of the 8 question. 9 THE WITNESS: Yes. 10 Q. (BY MR. GRUBER): All right. Number -- 11 Page 14, which is entitled "Typical Arrangement 12 Of" -- is that HL? What does that stand for? 13 A. HL 2. I think that refers to this coding 14 on the previous page, HL 2. So this is the 15 arrangement of the HL 2. 16 Q. Okay. And again, in that drawing we can 17 see the handholds that you have referred to in the 18 proximity of the hatch lids? 19 A. Yes. 20 Q. Okay. So far as you know, were there any 21 differences in the dimensions of the hatch lids and 22 the openings for the hatch lids in the cooler space 23 and then out in the hatch itself at the number two 24 level? 25 A. As far as I recall, no. I think they were</p>
<p>67</p> <p>1 A. Page 13 it says "handle for tank and air 2 cooler space in cargo hold, type two." 3 Q. This is not something that would have been 4 at the forward end of the access hatch lid area in 5 the number two hatch. Am I correct about that? 6 Would this have been in the cooler space? 7 A. It would -- yeah, in the cooler space, yes. 8 Q. And this handle in the cooler space, would 9 that have been anywhere by the access hatch lid? 10 A. Yes. 11 Q. And what would be its purpose? Why was it 12 there? What was its function? 13 A. Its function would be to be a handhold. 14 Q. For someone coming out of the -- 15 A. Yes. 16 Q. -- out of the hatch? 17 A. Yes. 18 Q. And you could have a handhold there because 19 there was no cargo that had to be loaded in that 20 area; is that correct? 21 A. Correct. 22 Q. But you didn't have a -- you couldn't have 23 a handhold like that in the middle of the cargo hatch 24 because it would interfere with the stowing of cargo. 25 Am I correct about that?</p>	<p>69</p> <p>1 similar if not the same in dimension. 2 MR. WHELAN: Do you want him to check 3 the -- 4 Q. (BY MR. GRUBER): If you can -- 5 A. We would have to check the drawings for 6 that. 7 Q. Actually, if you can do that, that would be 8 fine. 9 A. So, I mean, I need to go back. 10 Q. Right. 11 MR. WHELAN: Right. You need Page 9 12 to compare with -- 13 THE WITNESS: Here's three of them. 14 Comparing the lids, the uninsulated access hatch 15 would be 720 by 720 millimeters. And the insulated 16 access hatch is a little bigger at 810, but there's 17 no length given, so I assume it's square. So it 18 would be the same. So the insulated access hatch is 19 a little bigger than the uninsulated. 20 MR. WHELAN: But the question is: Is 21 it different as comparing the cooler room to -- 22 THE WITNESS: Right, yeah. 23 MR. WHELAN: -- at the C level. 24 THE WITNESS: Yeah. 25 MR. WHELAN: And you said there would</p>

<p>1 be uninsulated in the cooler room as well. Would 2 that be correct? 3 THE WITNESS: So if I know. I don't 4 find an overview drawing. I need to find a drawing 5 that refers to the type of manholes in the hatches. 6 Then we can compare actual. 7 MR. WHELAN: He's got to find -- 8 THE WITNESS: Upper deck number two is 9 HT 1. So HT 1 would be actually inside the deck 10 house situated near A, so that means inside of the -- 11 leading into the cooler room. And we need to compare 12 that to HT 1. So also the forward side of hatch two 13 there's an HT 1, which is the same, so which means 14 the access leading into the cargo hold, which is 15 four, is the same as aft. 16 Q. (BY MR. GRUBER): Okay. 17 A. Here we see there's an HT 2, which is the 18 forward of the second deck. So going back to HT 2, 19 that's the uninsulated, which is forward of hatch two 20 and aft. There's also an HT 2, so forward and aft it 21 would be the same dimensions according to the 22 drawings. 23 Q. All right. Based upon your review of the 24 drawings then and your recollection, you have 25 concluded that the dimensions of the hatch lids in</p>	<p>70</p> <p>1 A. The drawing is the inner bottom, which has 2 the double bottom tank construction, and it shows the 3 frames of the ship and the positions of manholes 4 leading into tanks, yeah. 5 Q. Okay. So the position of the manhole 6 leading from 2C to 2D at the forward end, is that 7 shown in here? If it is, can you circle it. 8 A. No. This is -- this level is -- 9 Q. Oh, it's a tank level? 10 A. It's below 2D. Yeah, sorry. 11 Q. Okay. Then the next page? 12 A. The next page is more forward in the ship 13 but it's the same level. 14 Q. Okay. Page 19? 15 A. 19, it's more aft. 16 Q. Okay. Page 20? 17 A. Page 20 was the cargo hold one. 18 Q. Okay. 19 A. And that's a cross view of the tanks and 20 their ladder arrangement inside of the tanks. 21 Q. Okay. 22 A. Page 21 is also a ladder arrangement inside 23 of a tank. 24 Q. Do you know what hatch that would be? 25 A. Hatch one.</p> <p>72</p>
<p>1 the cooler space and then the forward area at the 2C 2 level were identical? 3 A. Correct. 4 Q. Okay. Let's just quickly go through the 5 rest of these drawings as part of AA, wherever we 6 were. 7 MR. WHELAN: You were up to Page 11. 8 MR. GRUBER: No, I think we had 9 actually gotten to Page 14. 10 MR. WHELAN: 14. 11 Q. (BY MR. GRUBER): Page 15 I don't think is 12 pertinent because it just deals with the -- well, 13 what -- it deals with what? What is shown there, a 14 handle for the hatch lid? 15 A. It's a loose handle, HL 3, handling cargo 16 hold. And it gives the dimensions of the handles 17 that can be fitted on a bulkhead. 18 Q. Okay. Page 16 talks about an oval manhole 19 cover, which we are not dealing with here. 20 A. No. These are typical covers for tanks. 21 Q. Okay. Page -- well, I don't know what page 22 this is. 23 MR. WHELAN: 17. 24 Q. (BY MR. GRUBER): 17. Basically what's 25 shown in general on this drawing?</p> <p>71</p>	<p>1 Q. Okay. 2 A. Page 21 is the bosun's store and the 3 forecabin forward, ladder arrangement. 4 Q. It doesn't deal with the number two hatch? 5 All right. 6 A. 22 is the bulbous bow. 7 Q. Okay. 8 A. Page 24 is the forward area of the ship. 9 MR. WHELAN: What page is that? 10 MR. JANSEN: Wait a minute. Wait a 11 minute. Because I think -- can you go back to 12 Page 21. 13 MR. WHELAN: I think there are two 14 Page 21s. 15 THE WITNESS: It's frame 71 that's 16 situated in cargo number one. 17 MR. JANSEN: No, I think we are 18 missing a page here or something is -- 19 THE WITNESS: Yeah, I think we jumped 20 22 or 23. 21 MR. JANSEN: Let's see 21 first. 22 THE WITNESS: This is 21. Frame 71 is 23 correct. 24 MR. WHELAN: Then -- 25 THE WITNESS: Page 22, bosun's store.</p> <p>73</p>



<p style="text-align: right;">74</p> <p>1 MR. JANSEN: Bosun's store, that's</p> <p>2 correct.</p> <p>3 THE WITNESS: Then there's 23? 23.</p> <p>4 Then there's --</p> <p>5 MR. WHELAN: That's okay.</p> <p>6 THE WITNESS: 23 is bosun's store,</p> <p>7 bosun store. It's the forward end of the ship. Page</p> <p>8 24 is also the forward end of the ship. Page 25,</p> <p>9 forward. Page 26, extreme forward. Page 27 is the</p> <p>10 steering in the room, extreme aft. 28 is the aft of</p> <p>11 the ship. 29, the aft of the ship. 30, that was</p> <p>12 this -- concerns hatches three and four on the upper</p> <p>13 deck. Page 31 concerns hatches two and three.</p> <p>14 Q. (BY MR. GRUBER): At what levels?</p> <p>15 A. At the upper deck level.</p> <p>16 MR. WHELAN: Would that be the same</p> <p>17 thing as weather deck, the main deck?</p> <p>18 THE WITNESS: The main deck leading</p> <p>19 into A, leading into the A deck.</p> <p>20 MR. GRUBER: Okay.</p> <p>21 MR. WHELAN: But not in the A deck.</p> <p>22 THE WITNESS: Not in the A deck, but</p> <p>23 leading into A.</p> <p>24 MR. WHELAN: Okay.</p> <p>25 THE WITNESS: Page 32 concerns hatches</p>	<p style="text-align: right;">76</p> <p>1 leading from the A deck into the B deck.</p> <p>2 Q. Please circle that.</p> <p>3 A. I'm circling it in red.</p> <p>4 Q. Okay.</p> <p>5 A. I think that needs a correction. This is</p> <p>6 the A deck.</p> <p>7 MR. WHELAN: So it's going from A to</p> <p>8 B?</p> <p>9 THE WITNESS: No. This is from the</p> <p>10 upper deck to the A deck, so you would have to --</p> <p>11 Q. (BY MR. GRUBER): Can you just circle that.</p> <p>12 A. Circle one here.</p> <p>13 MR. WHELAN: Which one did you circle?</p> <p>14 What page are you referring to?</p> <p>15 THE WITNESS: The frame is --</p> <p>16 MR. JANSEN: You're now going back to</p> <p>17 page?</p> <p>18 THE WITNESS: I'm comparing Pages 32</p> <p>19 and 35. And it's correct because the bulkhead is on</p> <p>20 frame 155, and the hatch cover is just a little bit</p> <p>21 in front of it. And then if you compare -- no. The</p> <p>22 earliest assumption was correct, this is the ladder</p> <p>23 leading from upper deck to A deck. And this one --</p> <p>24 MR. WHELAN: In the masthouse?</p> <p>25 THE WITNESS: Yeah.</p>
<p style="text-align: right;">75</p> <p>1 one and two, which shows the upper deck level with</p> <p>2 the access ladder leading into the A deck, which is</p> <p>3 situated port side, inside of the masthouse, and this</p> <p>4 is facing the bulkhead.</p> <p>5 Q. (BY MR. GRUBER): Can you circle -- do we</p> <p>6 have that somewhere?</p> <p>7 A. Yeah.</p> <p>8 Q. Can you just circle that, please.</p> <p>9 A. I'm circling the hatch cover that's leading</p> <p>10 into 2A deck forward.</p> <p>11 Q. Okay.</p> <p>12 A. This is the hatch cover. Page 33 is cargos</p> <p>13 number three and four. Page 34 is cargos number two</p> <p>14 and three, and it shows the aft end of the hatch of</p> <p>15 cargo two. I'm circling the access hatch --</p> <p>16 Q. But it doesn't show the --</p> <p>17 A. -- on the second deck. So that's the --</p> <p>18 MR. WHELAN: A deck.</p> <p>19 THE WITNESS: -- A deck.</p> <p>20 Q. (BY MR. GRUBER): But that's at the aft end?</p> <p>21 A. Aft end of the cooler space.</p> <p>22 Q. Right. But it doesn't show the access</p> <p>23 hatch at the forward end?</p> <p>24 A. Right. Page 35 concerns hatches one and</p> <p>25 two and the forward end of two with the ladder</p>	<p style="text-align: right;">77</p> <p>1 MR. WHELAN: Okay.</p> <p>2 THE WITNESS: This one is leading from</p> <p>3 the A deck to the B deck, because you can see from</p> <p>4 the drawing their position for abeam ships is</p> <p>5 different.</p> <p>6 MR. WHELAN: And wait. Let's get the</p> <p>7 pages right.</p> <p>8 MR. GRUBER: That's what I'm going to</p> <p>9 do.</p> <p>10 Q. (BY MR. GRUBER): So the drawings showing</p> <p>11 the hatch -- the access hatch lid leading from A deck</p> <p>12 to B deck is on Page 35?</p> <p>13 A. Yeah.</p> <p>14 Q. All right.</p> <p>15 A. Continuing on Page 36, concerning hatches</p> <p>16 three and four. Page 37 concerns hatch two, the aft</p> <p>17 access hatch in the B deck in the cooler room.</p> <p>18 Q. Okay.</p> <p>19 A. Which I'm circling in red.</p> <p>20 MR. WHELAN: And that leads from B to</p> <p>21 C?</p> <p>22 THE WITNESS: Yes. Page 38 concerns</p> <p>23 hatch one and two. The bulkhead is at 15. This is</p> <p>24 the access hatch leading from B to C.</p> <p>25 MR. WHELAN: The witness has again put</p>



<p style="text-align: right;">78</p> <p>1 a red square around it.</p> <p>2 Q. (BY MR. GRUBER): Right.</p> <p>3 A. Yeah.</p> <p>4 Q. Okay.</p> <p>5 A. Can I please jump to Page 41, which</p> <p>6 concerns cargo hold number two, and it shows the</p> <p>7 manhole access lid and ladder in cargo hold number</p> <p>8 two which leads from the C into the D level.</p> <p>9 Q. Okay.</p> <p>10 A. And I'm circling that.</p> <p>11 MR. WHELAN: What page is this?</p> <p>12 THE WITNESS: 41. Now I'm jumping to</p> <p>13 Page 49, which concerns the aft hatch cover lid of</p> <p>14 the cooler room on the front deck, which is the C</p> <p>15 deck. I'm circling it in red.</p> <p>16 Q. (BY MR. GRUBER): All right. Now, let me</p> <p>17 ask you just a couple of questions about the last few</p> <p>18 pages, Pages 41 and 49. There's some writing and an</p> <p>19 arrow leading from the hatch lid at the forward end</p> <p>20 of 2, the access hatch lid at the forward end of 2C.</p> <p>21 Do you see that writing? Could you explain that to</p> <p>22 me.</p> <p>23 A. It describes the ladder as being VFS 78.</p> <p>24 Q. Which means?</p> <p>25 A. That refers to the ladders that we have</p>	<p style="text-align: right;">80</p> <p>1 hatch level -- is looking aft and there's a doorway</p> <p>2 in the photograph, correct?</p> <p>3 A. Yeah. I cannot judge if this is number</p> <p>4 three, but it could be. It has the similar</p> <p>5 configuration.</p> <p>6 MR. WHELAN: You're saying this is the</p> <p>7 number three hatch?</p> <p>8 MR. GRUBER: Yeah. These are the</p> <p>9 photographs that were taken on March of 2005.</p> <p>10 MR. WHELAN: But we were in -- we</p> <p>11 would have been in number two. It was the same place</p> <p>12 as --</p> <p>13 MR. GRUBER: Did I say three?</p> <p>14 MR. WHELAN: Yes.</p> <p>15 Q. (BY MR. GRUBER): I'm sorry. I'm going to</p> <p>16 take a break after this. I meant two. I apologize.</p> <p>17 A. Two?</p> <p>18 Q. I apologize.</p> <p>19 A. Yes, this could have been number two. The</p> <p>20 configuration could have been number two, but I</p> <p>21 cannot judge the reaction.</p> <p>22 Q. And then here in what will be 18D there's a</p> <p>23 close-up of the door, correct?</p> <p>24 A. Yes.</p> <p>25 Q. And am I correct that behind the bulkhead</p>
<p style="text-align: right;">79</p> <p>1 seen in the beginning of these drawings, so whenever</p> <p>2 we refer to length and height.</p> <p>3 Q. Got you.</p> <p>4 A. And then there's a coding HT2-5. HT2</p> <p>5 stands for the type of lid, which if we go back to --</p> <p>6 Q. I remember what you were talking about.</p> <p>7 Okay. And how does that compare with</p> <p>8 the hatch lid at the aft end of this same level?</p> <p>9 A. On the aft end of the C deck in cargo hold</p> <p>10 number two, the lid in the cooler room is also of the</p> <p>11 type HT2. The ladder is VFS 77.</p> <p>12 Q. Okay. That's I think all of the drawings,</p> <p>13 is it? I hope. Or is there another one?</p> <p>14 A. There is another one. Page 39 refers to</p> <p>15 cargo holds number three and four.</p> <p>16 Q. All right. So none of these drawings make</p> <p>17 reference to any securing or holding devices to keep</p> <p>18 access hatch covers in place on the LUZON STRAIT,</p> <p>19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. Just before we sit down, two more</p> <p>22 photographs which we will mark as -- these would be</p> <p>23 18C and D.</p> <p>24 Am I correct that this first one,</p> <p>25 which would be 18C -- this is of the number three</p>	<p style="text-align: right;">81</p> <p>1 that's shown in the door is the cooling space?</p> <p>2 A. Correct.</p> <p>3 Q. And behind that door would be the accessway</p> <p>4 at the aft end of number two?</p> <p>5 A. Yes.</p> <p>6 MR. GRUBER: All right. Let's sit</p> <p>7 down, take a break and mark these photographs that</p> <p>8 haven't been marked.</p> <p>9 (Recess taken, and Exhibits P-18A, B,</p> <p>10 C, D, E, F, G, and P-31 marked)</p> <p>11 (From this point on in the deposition,</p> <p>12 Mr. Balvert is present)</p> <p>13 Q. (BY MR. GRUBER): Captain, I want to show</p> <p>14 you three photographs that we have marked as</p> <p>15 Exhibits 18E, F and G, and I can represent to you</p> <p>16 that they were taken in March of 2005 when we had an</p> <p>17 opportunity to board the vessel and take some</p> <p>18 photographs.</p> <p>19 MR. GRUBER: Sorry.</p> <p>20 Q. (BY MR. GRUBER): And I can also represent</p> <p>21 to you that they were taken in the cooler space at</p> <p>22 the aft end of the number three hatch at the C level.</p> <p>23 Now, first of all, you see the</p> <p>24 securing device that's used with that hatch, which</p> <p>25 appears to me to be a hook-and-eye where the hook's</p>

<p style="text-align: right;">82</p> <p>1 secured to an eye on a stanchion; is that correct?</p> <p>2 MR. WHELAN: In two of the</p> <p>3 photographs?</p> <p>4 Q. (BY MR. GRUBER): Yes.</p> <p>5 A. Yeah, you see here 18 --</p> <p>6 MR. WHELAN: G.</p> <p>7 THE WITNESS: -- G, I think so.</p> <p>8 MR. WHELAN: F. That's an F, I'm</p> <p>9 sorry. 18F and G.</p> <p>10 THE WITNESS: There's a black</p> <p>11 stanchion where the hook-and-eye device is fitted on.</p> <p>12 Q. (BY MR. GRUBER): Is the hook-and-eye -- is</p> <p>13 the hook actually fitted onto the stanchion and the</p> <p>14 eye on the lid?</p> <p>15 A. I can't tell from this picture, but the</p> <p>16 hook is on the stanchion, yes.</p> <p>17 Q. Okay.</p> <p>18 A. It seems like somebody has secured this</p> <p>19 onto the handgrip.</p> <p>20 Q. Before I mark this, does this photograph in</p> <p>21 any way make it any clearer as to what the</p> <p>22 arrangement is?</p> <p>23 A. Black stanchion is here. The hook device</p> <p>24 is here, but I do not see the eye.</p> <p>25 Q. From your memory, was that stanchion</p>	<p style="text-align: right;">84</p> <p>1 MR. WHELAN: Do you mean if -- wait.</p> <p>2 Let's make the question clear. You're talking about</p> <p>3 the accesses that are near the bulkheads?</p> <p>4 MR. GRUBER: Yes.</p> <p>5 MR. WHELAN: As opposed to the cooler.</p> <p>6 MR. GRUBER: Yeah, yeah.</p> <p>7 THE WITNESS: On the bulkhead the</p> <p>8 system's different. It's not like this.</p> <p>9 Q. (BY MR. GRUBER): Okay. So it's not like</p> <p>10 what's shown, for example --</p> <p>11 A. No.</p> <p>12 Q. -- in Photograph 18F?</p> <p>13 A. This typically is the cooler room layout.</p> <p>14 Q. Okay. Now, in this photograph, 18E, we can</p> <p>15 see the handhold device to the right of the hatch</p> <p>16 opening, correct?</p> <p>17 A. Correct.</p> <p>18 Q. Okay. Now, there's also some -- in these</p> <p>19 photographs there's some rope that's shown. Do you</p> <p>20 see that?</p> <p>21 A. Yes.</p> <p>22 Q. Was that rope in use or in place two weeks</p> <p>23 before the ship was commissioned?</p> <p>24 A. Not on the hatches. It was used as a</p> <p>25 railing near the hatch cover -- cargo hold hatch</p>
<p style="text-align: right;">83</p> <p>1 used -- when you first boarded the ship two weeks</p> <p>2 before it was commissioned, was that type of a hook</p> <p>3 arrangement in use with the stanchion at the aft end</p> <p>4 of the cooler space at 3D?</p> <p>5 A. To the best of my recollection, yes.</p> <p>6 MR. WHELAN: I have found a photograph</p> <p>7 that's made from a different perspective. I mean, I</p> <p>8 don't know if that helps you at all but --</p> <p>9 THE WITNESS: I know the system with</p> <p>10 the stanchion was used on board, but I don't know if</p> <p>11 this was originally to be fitted to hold onto the</p> <p>12 handgrip, because to the best of my recollection, all</p> <p>13 of the hooks would have their eye.</p> <p>14 Q. (BY MR. GRUBER): Would have an eye?</p> <p>15 A. Yeah. So I don't know if this is a change</p> <p>16 or whatever.</p> <p>17 Q. Okay. The other -- when you had referenced</p> <p>18 earlier about the -- the hatch covers at the forward</p> <p>19 end of number three and the aft end of number four,</p> <p>20 were the locking or the holding devices associated</p> <p>21 with stanchions? Do you remember?</p> <p>22 A. Uh-huh.</p> <p>23 Q. Were they similar stanchions to the ones</p> <p>24 that are shown in the photographs that I have just</p> <p>25 identified?</p>	<p style="text-align: right;">85</p> <p>1 cover opening, so it was not in use in the cooler</p> <p>2 rooms or near the manhole lid.</p> <p>3 Q. Okay. I am going to mark the -- this other</p> <p>4 photograph that we referenced.</p> <p>5 MR. WHELAN: Do you want him to</p> <p>6 continue to look at these or give them back?</p> <p>7 (Discussion off the record)</p> <p>8 MR. GRUBER: This additional</p> <p>9 photograph of the hatch lid and the stanchion that we</p> <p>10 were referring to in the cooler space at 3D, I'm</p> <p>11 marking as 18J.</p> <p>12 (Exhibit 18J marked)</p> <p>13 Q. (BY MR. GRUBER): Now, I also want to show</p> <p>14 you a photograph that we have marked as 18H. And</p> <p>15 again, this was a photograph that was taken in</p> <p>16 March 2005. And again, I could represent to you that</p> <p>17 it was taken in the hold at 2D going up to 2C at the</p> <p>18 forward end.</p> <p>19 Does that look similar to the way that</p> <p>20 ladder looked two weeks before the ship was</p> <p>21 commissioned?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And this is a photograph that's --</p> <p>24 MR. WHELAN: You're just focusing on</p> <p>25 the ladder?</p>

<p>1 MR. GRUBER: Just the ladder. It's  2 all the --  3 MR. WHELAN: Not the underside of the  4 cover?  5 MR. GRUBER: No, just focusing on the  6 ladder  7  8  9  10  11  12  13  14  15  16  17  18  19  20  21  22  23  24  25</p>	86	<p>1 stanchions and without stanchions. And they are  2 featured in many different forms on this vessel, so  3 there's various good access for them.  4 Q. (BY MR. GRUBER): Well, I'm not -- that  5 really wasn't my point.  6 When I use the term "handhold," I  7 don't necessarily mean a device that -- for example,  8 that's shown in the last photograph that I just  9 showed you. I'm talking about something that a  10 person can grab onto to assist themselves in coming  11 up a ladder and getting out of the access hatch  12 opening.  13 Do you recognize that it's necessary  14 to have some type of a handhold that a person can use  15 to get them up and out of the hatch?  16 A. Yes.  17 Q. Okay. That was my only question.  18 Do you also recognize that it's  19 necessary to have some sort of device to lock the  20 hatch lid in an open position while people are going  21 in and out of that access hatch?  22 A. Yes.  23 MR. WHELAN: Object to form of the  24 question. You can answer.  25 THE WITNESS: Yes.</p>	88
<p>1 understand.  2 A. The hatch lid, yes.  3 Q. Now, the location of the hatch lid in that  4 hatch level, did you find that to be unusual, or was  5 that something that you found to be a normal  6 situation?  7 A. It's a normal situation.  8 Q. Okay. Did you --  9 MR. WHELAN: When you say "lid," you  10 mean the opening itself?  11 Q. (BY MR. GRUBER): Yeah. The fact that it --  12 when I say -- the fact that it opened in the middle  13 of the hatch, as opposed to adjacent to a stanchion  14 or a bulkhead. That's what I'm talking about.  15 A. Yeah.  16 Q. That you found to be a normal situation?  17 A. Normal, yeah.  18 Q. Do you recognize that it's necessary to  19 have an adequate handhold for people who are going to  20 be coming in and out of these access hatches?  21 MR. WHELAN: Object to form of the  22 question. You can answer. I'm just objecting for  23 the record.  24 THE WITNESS: No. There's many types  25 of hatch access systems, and we have seen them with</p>	87	<p>1 Q. (BY MR. GRUBER): Now, when you saw the  2 situation in those two weeks before the ship was  3 commissioned, did you consider the handhold for this  4 access hatch -- and I'm talking about the forward end  5 of number 2C -- to be adequate?  6 A. Yes.  7 Q. And why?  8 A. This layout features that you can grab onto  9 the coaming, like I would customarily do. And also  10 the locked hatch lid is able to be your handhold.  11 Q. Do you consider it to be an adequate  12 situation for a handhold when the handhold is the  13 hatch lid itself?  14 A. Yes.  15 Q. Did you consider the locking mechanism or  16 the holding device for this hatch lid -- that is the  17 hook and eye that we have seen and that you have  18 described -- to be an adequate securing device?  19 A. Yes. It is the same as on many layouts in  20 many ships. It's similar.  21 Q. So then I take it that you did not have any  22 discussion with anybody from Seatrade or anybody in  23 the shipyard with regard to the handhold or lack of  24 handholds for the securing device for this particular  25 hatch cover at the forward end of 2C; is that</p>	89

<p style="text-align: right;">90</p> <p>1 correct?</p> <p>2 A. That's correct, we didn't have any</p> <p>3 discussion on that. And the shipping inspection also</p> <p>4 went through these cargo holds and these accesses,</p> <p>5 and on any other issue they would have raised and</p> <p>6 noted it on the inspection report, but they didn't.</p> <p>7 So everybody who went there -- the chief engineers,</p> <p>8 the inspectors, me -- we all considered this a normal</p> <p>9 and safe access lid with all of the required</p> <p>10 facilities for securing and holding.</p> <p>11 Q. So you did give consideration to the fact</p> <p>12 of whether this was an adequate handhold and an</p> <p>13 adequate lock or securing device for that hatch lid?</p> <p>14 A. Yes. Together with the shipyard people,</p> <p>15 the chief engineer, the Dutch shipping inspector</p> <p>16 people.</p> <p>17 Q. Well, did you actually discuss the subject?</p> <p>18 A. No. Because we all felt it was good</p> <p>19 individually and as a group, because otherwise, it</p> <p>20 would have been on the list of the items.</p> <p>21 Q. So it's not a subject that you ever talked</p> <p>22 to the chief engineer about?</p> <p>23 A. No.</p> <p>24 Q. It's not a subject you ever talked to</p> <p>25 anybody at the shipyard about?</p>	<p style="text-align: right;">92</p> <p>1 Q. And you were familiar with your</p> <p>2 responsibilities as master?</p> <p>3 A. Yes.</p> <p>4 Q. Okay.</p> <p>5 MR. GRUBER: Do you have them there,</p> <p>6 Rick?</p> <p>7 MR. WHELAN: Yes.</p> <p>8 Q. (BY MR. GRUBER): First the quality</p> <p>9 assurance manual which we have marked as</p> <p>10 Exhibit P-1(c), as in Charlotte.</p> <p>11 MR. WHELAN: P -- what was that again?</p> <p>12 MR. GRUBER: P-1(c).</p> <p>13 Q. (BY MR. GRUBER): If we look at tab three,</p> <p>14 Page 2 -- I think it's Page 2. The second paragraph</p> <p>15 on Page 2, this is a paragraph which is part of</p> <p>16 Seatrade's safety policy statement, correct?</p> <p>17 A. Yeah. It says, "Seatrade Policy</p> <p>18 Statement," yeah.</p> <p>19 MR. WHELAN: Not Sea --</p> <p>20 THE WITNESS: Oh, yeah, it's the</p> <p>21 safety section.</p> <p>22 Q. (BY MR. GRUBER): Right. And it's under --</p> <p>23 A. A Seatrade policy statement.</p> <p>24 Q. But it's under the heading on Page 1,</p> <p>25 "Safety"?</p>
<p style="text-align: right;">91</p> <p>1 A. No.</p> <p>2 Q. And it's not a subject that you ever talked</p> <p>3 to anybody who came on board to inspect or certify</p> <p>4 the vessel; is that correct?</p> <p>5 A. Correct.</p> <p>6 MR. WHELAN: So his answer's "no, no,"</p> <p>7 mean --</p> <p>8 MR. GRUBER: That he didn't discuss</p> <p>9 it.</p> <p>10 MR. WHELAN: That he didn't discuss</p> <p>11 it.</p> <p>12 MR. GRUBER: Right.</p> <p>13 Q. (BY MR. GRUBER): Okay. Now, when you</p> <p>14 boarded the ship, were you provided with manuals by</p> <p>15 Seatrade?</p> <p>16 A. Yes. We have what we call a QA system,</p> <p>17 which is a ship management system.</p> <p>18 Q. QA standing for quality assurance, correct?</p> <p>19 A. Correct.</p> <p>20 Q. And by the time the vessel was</p> <p>21 commissioned, did you actually physically have the</p> <p>22 manuals?</p> <p>23 A. Yes.</p> <p>24 Q. And did you familiarize yourself with them?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">93</p> <p>1 A. Yeah, correct.</p> <p>2 Q. And could you read the paragraph out loud</p> <p>3 that I'm referring to. Actually, that paragraph and</p> <p>4 the paragraph under it.</p> <p>5 A. "It is the aim of Seatrade to prevent</p> <p>6 hazardous situations and incidents which can lead to</p> <p>7 personal injury, illness, accidents, or damage to</p> <p>8 property. We aim at preventing those situations by</p> <p>9 identifying, analyzing and eliminating possible</p> <p>10 causes where feasible. Every employee shall</p> <p>11 participate in determining and eliminating such</p> <p>12 causes to prevent occurrence or recurrence in the</p> <p>13 future. The master has overriding authority</p> <p>14 regarding the safety of its ship, crew and cargo. He</p> <p>15 has the responsibility to review the onboard safety</p> <p>16 procedures."</p> <p>17 Q. And you recognize that you knew you had</p> <p>18 this authority; is that correct?</p> <p>19 A. Yes.</p> <p>20 Q. Now, when they talk about aiming at</p> <p>21 preventing situations by identifying, analyzing and</p> <p>22 eliminating possible causes where feasible, was there</p> <p>23 a process that you were taught to use to identify</p> <p>24 what I will call hazards; that is to identify them,</p> <p>25 to analyze them and to eliminate them where feasible?</p>

<p style="text-align: right;">94</p> <p>1 Was there a particular process that</p> <p>2 you were taught to use in doing that?</p> <p>3 A. I'm not sure where it stands for a</p> <p>4 particular process, but the general process is the</p> <p>5 familiarization that you would have on a ship; and if</p> <p>6 anything is identified as being hazardous, then it</p> <p>7 would be taken up action in the form of an R-U-S, or</p> <p>8 RUS report, of the situation or an action in like an</p> <p>9 action point list.</p> <p>10 Q. Did you -- in connection with the hatch lid</p> <p>11 and access at the forward end of 2C that we have been</p> <p>12 talking about, did you go through this analysis</p> <p>13 process with regard to that in terms of analyzing it</p> <p>14 as to whether either the handhold situation or the</p> <p>15 locking device for the hatch lid created a hazard or</p> <p>16 a possibility for an accident?</p> <p>17 MR. WHELAN: Wait. Do you mean like</p> <p>18 that specific thing or just in general when he's</p> <p>19 going up and down looking at everything?</p> <p>20 Q. (BY MR. GRUBER): No. I mean -- no, I mean</p> <p>21 that specific thing, whether that's an area that you</p> <p>22 actually made an -- you know, that you thought about.</p> <p>23 Is this an area where an accident</p> <p>24 could take place, either because of the lack of a</p> <p>25 handhold or of an adequate handhold or the holding</p>	<p style="text-align: right;">96</p> <p>1 So we did do that.</p> <p>2 Q. (BY MR. GRUBER): Okay.</p> <p>3 A. And during the time at the shipyard, later</p> <p>4 in the -- on the voyages when people had access to</p> <p>5 those decks or to the crew. And also even in the</p> <p>6 Port of Wilmington, at that port call, we had to</p> <p>7 prepare the hatch and also to go down. And also</p> <p>8 during the USDA ice-testing procedure, what we did</p> <p>9 just before departure in November, to check all of</p> <p>10 the sensors, if they are in compliance with the</p> <p>11 United States Department of Agriculture rules, so</p> <p>12 then also the crew just went up and down that hatch</p> <p>13 with the ice buckets and all of the testing devices.</p> <p>14 Q. Was there ever any consideration given as</p> <p>15 to requiring the longshoremen to only use the</p> <p>16 accessway at the aft end of the number two hatch in</p> <p>17 the cooler space?</p> <p>18 A. It was available to them, but when the</p> <p>19 cargo hold deck still is covered with cargo and when</p> <p>20 the <del>stair</del> <sup>staircase</sup> during the discharge is working aft, then</p> <p>21 still the cooler room would not have been accessible,</p> <p>22 so then they couldn't get into the deck, so then they</p> <p>23 would have to need to use the forward. So both</p> <p>24 accesses were available to them.</p> <p>25 Q. And because there would have been a period</p>
<p style="text-align: right;">95</p> <p>1 mechanism, did you consider it?</p> <p>2 A. Well, as a routine familiarization and the</p> <p>3 inspecting with the Dutch inspector, you go through</p> <p>4 all things. So if anything springs out to be</p> <p>5 dangerous, then we would start the analysis, but this</p> <p>6 hatch didn't spring out or trigger us as being</p> <p>7 something dangerous. We considered it to be a good</p> <p>8 and normal hatch cover lid with securing.</p> <p>9 Q. Am I correct that you realized that</p> <p>10 longshoremen in different parts of the world would be</p> <p>11 going in and out of 2C and 2D at the forward end?</p> <p>12 You knew that?</p> <p>13 A. Yes.</p> <p>14 Q. And you were aware of the fact that the</p> <p>15 longshoremen coming out of 2D, that some of them</p> <p>16 would be using the hatch lid itself to hold onto to</p> <p>17 help themselves out of the hatch?</p> <p>18 A. Yes.</p> <p>19 MR. WHELAN: Object to the form of the</p> <p>20 question.</p> <p>21 THE WITNESS: Yes. Also, our crew</p> <p>22 would use that method of holding on, and we did of</p> <p>23 course. When going down with the chief engineer,</p> <p>24 the inspector, I always step out sideways, but there</p> <p>25 are many people that hold the lid or go down or up.</p>	<p style="text-align: right;">97</p> <p>1 of time that the cargo would have been blocking the</p> <p>2 door, so they could have gotten out into the hatch</p> <p>3 from the cooler space. Is that what you mean?</p> <p>4 A. <del>Yeah.</del> <sup>No</sup></p> <p>5 Q. Okay. So they would have had to have used</p> <p>6 the forward at some point in time?</p> <p>7 A. (Nods).</p> <p>8 Q. And you never prohibited or did anything to</p> <p>9 tell the longshoremen in the Port of Wilmington, for</p> <p>10 example, "Don't use the accessway at the forward end</p> <p>11 of the number two hatch"?</p> <p>12 A. No.</p> <p>13 Q. Now, getting back to the manual, if you</p> <p>14 would go to the manual, which is the QAD No. 1, which</p> <p>15 I have marked as Exhibit P-1(a), tab 7, 2.52.</p> <p>16 MR. WHELAN: Which volume is this?</p> <p>17 MR. GRUBER: It's --</p> <p>18 MR. WHELAN: One?</p> <p>19 MR. GRUBER: -- yeah, QAD-1.</p> <p>20 Q. (BY MR. GRUBER): And I'm looking at 2.5.2,</p> <p>21 and particularly under the heading, "The Chief</p> <p>22 Officer," which I think is the next page from what</p> <p>23 you are looking at. Going down to Item 200, do you</p> <p>24 see what I'm talking about?</p> <p>25 A. Yeah.</p>



<p style="text-align: right;">98</p> <p>1 Q. There it says that the chief officer makes  2 sure that the "hatches are open/closed in a safe  3 manner." To what is that referring to when it says  4 the hatches are open?  5 Are we talking in part there about the  6 access hatch lids that we have been discussing?  7 MR. WHELAN: Object to the form of the  8 question.  9 THE WITNESS: As I understand it, the  10 hatches generally refer to the cargo hold hatches,  11 the cargo hatches, because the next line --  12 Q. (BY MR. GRUBER): Yes.  13 A. -- is "Details on Entrances." So I think  14 they separated it.  15 Q. Well, was it necessary during normal cargo  16 operations aboard the LUZON STRAIT to actually open  17 the hatch covers at each level?  18 A. Yes.  19 Q. For what reason?  20 A. The discharge works from top to bottom, so  21 cargo would also cover the next deck level. So first  22 to clear out the cargo from the hatch, you would need  23 to open up the cargo hold hatch covers. And being a  24 reefer, you need to close the sections in order to  25 have a cooled atmosphere in the cargo hold.</p>	<p style="text-align: right;">100</p> <p>1 lift up the hatch and to physically lock it in place?  2 A. Yes.  3 Q. And to open the hatch they had to -- there  4 was that dog that we saw had to be turned?  5 A. Yes.  6 Q. And there's a handle on the hatch where you  7 have to lift it up, correct?  8 A. Yes.  9 Q. Can that be done manually, or do you need  10 some sort of a tool or helping device to do that?  11 A. That can be done manually.  12 Q. And then it would be a question when the  13 hook-and-eye was in use of making sure that the hook  14 was engaged in the eye, correct?  15 A. Correct.  16 Q. And what member of the crew would have been  17 the member -- you know, an AB again, who would have  18 done that?  19 A. The AB.  20 Q. All right. Looking still on QAD-1, tab 18,  21 look at 2.1.4, which is entitled -- do you see  22 "Critical Equipment" and "Standby Equipment"?  23 A. Yes.  24 Q. And it talks about "identifying equipment  25 and technical systems which Seatrade considers to be</p>
<p style="text-align: right;">99</p> <p>1 Q. Okay. Now, looking down to the next  2 asterisk under that, I think it says, "Safety  3 precautions at entrances and hatch openings are  4 taken." To what was that referring?  5 A. As I understand it, this safety precautions  6 referred to entrances, such as manhole lids and  7 access ladders, leading into the cooler rooms and the  8 cargo holds.  9 Q. So that would include the access hatch lid  10 at the 2C level forward end?  11 A. Yes.  12 Q. And when it says "Safety Precautions," what  13 particular safety precautions would be taken by the  14 chief officer at those locations?  15 A. To see there's no obstructions there where  16 somebody can trip over, see if the deck's not  17 slippery with moisture or grease or whatever, and  18 then to assure that the hatches -- hatch lid is open  19 and that it is secured.  20 Q. It's locked in a secured, open position?  21 A. Yeah.  22 Q. And in fact, was it the practice aboard the  23 ship for a crew member or crew members to -- in  24 addition to removing the grating that covered the  25 hatch lid at the forward end of 2C, to physically</p>	<p style="text-align: right;">101</p> <p>1 of a crucial nature in view of safety and/or  2 operational hazards." Then it says, "The following  3 additional qualifications are used in the vessel  4 information system." And then it says -- alongside  5 critical equipment it refers to equipment which bears  6 a direct relation with safety.  7 A. Yes.  8 Q. Now, did you consider the hook-and-eye  9 locking device on the hatch lid at the forward end of  10 2C to be critical equipment?  11 A. In this definition, no.  12 Q. Why not?  13 A. Because this definition specifically  14 reefers to this VIS computer system. That's a  15 planned maintenance system. And in this definition  16 of relation with safety, it was referring to items  17 such as fire extinguishers, lifeboats, emergency fire  18 pumps, CO<sup>2</sup> fire extinguishers. So it's not as much  19 safety as to safe working appliances, or this was  20 really to emergency preparedness, yeah.  21 Q. Well, did you consider that hook-and-eye  22 locking device to be a safety device?  23 A. Yes. In its form, yes.  24 Q. And was there any program of preventative  25 maintenance in place from the time the ship was</p>



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<p>102</p> <p>1 commissioned with regard to that hook-and-eye?</p> <p>2 A. The system onboard is that all crew members</p> <p>3 are instructed and supported to report any defect.</p> <p>4 So this is a continuous process that if during any</p> <p>5 operation or at any given moment in operation of the</p> <p>6 ship, loading, discharging or maintaining, if they</p> <p>7 find anything broken or not good, not correct, they</p> <p>8 report it to their superior, meaning the postman or <b>BOATSWAIN</b></p> <p>9 the chief officer, and then that job gets put on the</p> <p>10 job list and gets done.</p> <p>11 Q. So, for example, if an AB who would be</p> <p>12 opening that particular hatch lid would notice a</p> <p>13 problem with the hook-and-eye, it would be his job --</p> <p>14 he would be responsible for reporting that condition?</p> <p>15 A. Correct.</p> <p>16 Q. And then once he had made the report, it</p> <p>17 would be up to the vessel's officers to make sure</p> <p>18 that the situation was corrected?</p> <p>19 A. Correct.</p> <p>20 Q. Okay. I guess but other than when the lid</p> <p>21 was opened or closed by an AB, would there have been</p> <p>22 any other period of time when that hook-and-eye would</p> <p>23 have been inspected for any reason?</p> <p>24 A. No. So basically it's inspected every port</p> <p>25 when you discharge and load, so that can be every</p>	<p>104</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>103</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>105</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: right;">106</p> <p>1 incident.</p> <p>2 Q. So that was the basis of my question.</p> <p>3 Was the subject brought up at the</p> <p>4 safety meeting that you are talking about because you</p> <p>5 had notification of a lawsuit, or was it brought up</p> <p>6 independently of that?</p> <p>7 A. I don't know. That I don't know, if it was</p> <p>8 during that term, during that period, but I don't</p> <p>9 know if it was before or after.</p> <p>10 MR. GRUBER: Okay. I guess if we can</p> <p>11 find those safety notes, I would request them.</p> <p>12 MR. WHELAN: Okay.</p> <p>13 (Information to be supplied)</p> <p>14 Q. (BY MR. GRUBER): Now let's talk about the</p> <p>15 maiden voyage. The crew list that I have been</p> <p>16 provided with, which I have here somewhere, which I</p> <p>17 have marked as Exhibit P-23, do you have a copy of</p> <p>18 that?</p> <p>19 MR. WHELAN: I can find one. We have</p> <p>20 one that we can look at if you need that. Let's just</p> <p>21 make sure it's the same one. Yeah, here, we will</p> <p>22 hand that back to Mr. Gruber so you can go further.</p> <p>23 This is P-3 (sic)?</p> <p>24 MR. GRUBER: Yes.</p> <p>25 Q. (BY MR. GRUBER): This indicates that it</p>	<p style="text-align: right;">108</p> <p>1 Q. And what was done there?</p> <p>2 A. We loaded, if I recall correctly, 150 new</p> <p>3 containers for Crowley USA.</p> <p>4 Q. And where were those containers scheduled</p> <p>5 to be discharged?</p> <p>6 A. Jacksonville.</p> <p>7 Q. These containers were all stowed? Well,</p> <p>8 where were they stowed? <i>deck</i></p> <p>9 A. On the main, mostly as aft as possible.</p> <p>10 Q. Were they covering any of the hatch lids on</p> <p>11 the main deck?</p> <p>12 A. No.</p> <p>13 Q. Okay. So nobody had to go into 2D, the 2D</p> <p>14 level in China; is that correct?</p> <p>15 A. China, no.</p> <p>16 Q. All right. Then where did you go from</p> <p>17 China?</p> <p>18 A. From China we went to Busan, Korea, to take</p> <p>19 bunkers at anchor.</p> <p>20 Q. And again, it wasn't necessary for anybody</p> <p>21 to go into 2D at that connection?</p> <p>22 A. Correct.</p> <p>23 Q. Where did you go from there?</p> <p>24 A. Then we sailed to Japan, the Tokyo Bay</p> <p>25 area, to load secondhand cars and secondhand yachts.</p>
<p style="text-align: right;">107</p> <p>1 seems like, for the most part, the date joined that's</p> <p>2 listed is August 30, 2002, when people signed on.</p> <p>3 A. Yeah.</p> <p>4 Q. When did the ship actually leave Taiwan?</p> <p>5 A. 31st August, yeah.</p> <p>6 Q. Okay. And where was its first stop after</p> <p>7 it left Taiwan?</p> <p>8 A. In Japan.</p> <p>9 Q. For what purpose?</p> <p>10 A. For obtaining a clearance.</p> <p>11 Q. What type of clearance?</p> <p>12 A. Obtaining a Japanese port clearance which</p> <p>13 would permit the vessel then to go to China. Because</p> <p>14 due to the political situation, no merchant vessel is</p> <p>15 allowed to trade directly from Taiwan to China. So</p> <p>16 with a Japanese stopover, that would be solved.</p> <p>17 Q. And what had to be done in order to get</p> <p>18 that clearance?</p> <p>19 A. It was just basically paperwork. So a stop</p> <p>20 at Japan, anchor there, wait for the port officials.</p> <p>21 Then they would testify the ship has been there, and</p> <p>22 they would give it a port clearance to proceed to the</p> <p>23 next port.</p> <p>24 Q. And what was the next port?</p> <p>25 A. Qingda in China, Q-I-N-G-D-A.</p>	<p style="text-align: right;">109</p> <p>1 Q. And where did you stow that cargo?</p> <p>2 A. The cargo was stowed in all of the cargo</p> <p>3 hold decks.</p> <p>4 Q. Including 2D?</p> <p>5 A. Including 2D.</p> <p>6 Q. Where was that cargo discharged?</p> <p>7 A. It was discharged in New Zealand in</p> <p>8 Auckland.</p> <p>9 Q. Okay. Was the forward access hatch cover</p> <p>10 at 2C opened during those cargo operations?</p> <p>11 A. Yes.</p> <p>12 Q. Was --</p> <p>13 MR. WHELAN: 2C?</p> <p>14 MR. GRUBER: 2C. Did I say --</p> <p>15 MR. WHELAN: I think you said 2D.</p> <p>16 Q. (BY MR. GRUBER): Was your next step in</p> <p>17 Auckland, New Zealand, after Japan?</p> <p>18 A. Yes.</p> <p>19 Q. And you discharged that cargo?</p> <p>20 A. Yes.</p> <p>21 Q. So, again, it would have been necessary for</p> <p>22 longshoremen to go into 2D at that location?</p> <p>23 A. Yes.</p> <p>24 Q. And did they use the forward access?</p> <p>25 A. Yes.</p>

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1 Q. Now, while you were in New Zealand, there  
2 was some kind of inspection performed?

3 A. Yes. We had a Port State Control.

4 Q. And what was the reason that inspection was  
5 made?

6 A. Under the Port State Control memorandums,  
7 countries oblige themselves to inspect a certain  
8 amount of vessels in order to assure compliance with  
9 the rules and safety.

10 Q. And who conducted the inspection?

11 A. It's a New Zealand citizen, New Zealand  
12 inspector.

13 Q. And what did he inspect?

14 A. He inspected the vessel in general and --  
15 and I know -- what I recollect, he specifically  
16 focused on the emergency preparedness, lifeboats,  
17 fire hoses.

18 Q. Okay. You had mentioned earlier there was  
19 a period of time when a Dutch inspector was aboard  
20 the ship.

21 A. Yeah, that's in the -- during the time at  
22 the yard, the shipyard.

23 Q. Okay.

24 A. That's that shipping inspector.

25 Q. And how long was he aboard the ship?

1 in the four Australian ports?

2 A. As far as I know, yes.

3 Q. Okay. And what were those ports? Well,  
4 let me see, it was Townsville, Brisbane -- well, not  
5 in order.

6 A. Yeah, the first was Townsville, and then  
7 Mackay, Port Alma, Brisbane.

8 Q. So Brisbane was the last port --

9 A. Yes.

10 Q. -- before the ship came to the United  
11 States?

12 A. Yes.

13 Q. Now, at which port was cargo loaded into  
14 2D?

15 A. Let me check the stowage plan. It says 2D,  
16 Townsville. All cargo under 84 pallets, Townsville.

17 Q. And what kind of cargo was it?

18 A. Frozen beef.

19 Q. Palletized?

20 A. Palletized, yeah.

21 Q. And in order to load that cargo in 2D, was  
22 it necessary for longshoremen to go into --  
23 physically go into 2D?

24 A. Yes.

25 Q. And did they use the forward access at 2C

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1 A. Dutch shipping inspector? I think it was  
2 at least a week.

3 Q. And I think you told me that you had that  
4 discussion with the Dutch shipping inspector  
5 regarding the locking device for the forward hatch  
6 lid at 2C, access hatch lid; is that correct?

7 A. Yes, we had no discussions (sic).

8 Q. Okay. You discharged that cargo at New  
9 Zealand?

10 A. Yes.

11 Q. Did you take on any cargo at New Zealand?

12 A. No.

13 Q. Where did you go from there?

14 A. We then proceeded to the northeast coast of  
15 Australia, to Townsville, and there we <sup>called</sup> caught four  
16 ports to unload beef, frozen beef, and yachts.

17 Q. Now, I have a cargo stowage plan, which I  
18 have marked as P-21. You have it there?

19 MR. WHELAN: Yeah, I have it. Let me  
20 make sure it's the same -- yeah.

21 Q. (BY MR. GRUBER): All right. If you have it  
22 there, then --

23 A. Yeah, it's the same.

24 Q. And am I correct that this cargo stowage  
25 plan does in fact relate to the cargo that was loaded

1 that we have been talking about?

2 A. Yes. They would start storing the cargo  
3 aft against the cooler room, work their way forward  
4 and use the access. Because obviously the other aft  
5 access would be covered by cargo after the operations  
6 begin, so they would have to use the aft ladder, the  
7 forward ladder.

8 Q. But in getting out of 2D, would they have  
9 used that forward access, or would they have used the  
10 aft end, in other words, in leaving the ship?

11 A. In leaving the ship they would have used  
12 the forward, yeah.

13 Q. Okay. In other words, space would have  
14 been left available for them to get out?

15 A. Yes. Until you reach the really final  
16 area, which is then loaded with one forklift and  
17 pallets are put in place, covering also the access to  
18 the forward ladder. And then what we would call --  
19 we would plug the cargo into the coaming area with  
20 slings.

21 MR. WHELAN: And how would they get  
22 out then?

23 THE WITNESS: They either use a  
24 portable ladder or they would use the pallet cage.  
25 As long as they are in the final loading cycles, the

<p style="text-align: right;">114</p> <p>1 cage is off and then they would have to use a ladder, 2 portable ladder.</p> <p>3 Q. (BY MR. GRUBER): Okay. Now, as I 4 understand it, from Brisbane the ship went to Corpus 5 Christi?</p> <p>6 A. Correct. Through the Panama Canal.</p> <p>7 Q. Okay. And was there any cargo operation in 8 the number two hatch at Corpus Christi?</p> <p>9 A. Let me check.</p> <p>10 MR. WHELAN: Would you -- not to 11 complicate things, but he could look at the deck logs 12 to tell you that as well.</p> <p>13 MR. GRUBER: Oh, I don't care what he 14 looks at, no.</p> <p>15 MR. WHELAN: Would you rather do that?</p> <p>16 MR. GRUBER: He can look at anything 17 he needs to look at.</p> <p>18 THE WITNESS: Anything more decisive 19 than this. This is here. At Corpus Christi, a total 20 of 397 pallets was destined for Corpus Christi.</p> <p>21 Q. (BY MR. GRUBER): But were any of those 22 pallets in the number two hatch?</p> <p>23 A. Let me check that out.</p> <p>24 MR. WHELAN: Do you have any open 25 exhibit numbers you want to put on these logbooks?</p>	<p style="text-align: right;">116</p> <p>1 A. There's another six from hatch number 3B, 2 so no cargo operations. As I get it from this 3 stowage plan in Corpus Christi, no cargo operations 4 on hatch number two.</p> <p>5 Q. Okay. And am I correct that in looking at 6 this stowage plan, when the ship left Australia, 7 there was no cargo stowed in 2A or 2B?</p> <p>8 A. Correct, yeah.</p> <p>9 Q. All right. And then from Corpus Christi 10 where did the ship go?</p> <p>11 A. It proceeded to Port Everglades.</p> <p>12 Q. And if I read the stowage plan correctly, 13 there were some boats on deck that were discharged?</p> <p>14 A. Yeah, for the Florida boat show.</p> <p>15 Q. So again, it wasn't necessary to go into 16 the number two hatch at Port Everglades?</p> <p>17 A. Correct.</p> <p>18 Q. Well, where did the ship go from Port 19 Everglades?</p> <p>20 A. To Jacksonville to discharge the new 21 containers.</p> <p>22 Q. Okay. Those containers that you told us 23 about?</p> <p>24 A. Yeah.</p> <p>25 Q. And again, it wasn't necessary to go into</p>
<p style="text-align: right;">115</p> <p>1 MR. GRUBER: 32, 33.</p> <p>2 MR. WHELAN: So we are going to mark 3 as 32 the logbook which runs from October 1st through 4 October 31st, and we are going to mark as 33 the 5 logbook that runs from November 1st through --</p> <p>6 THE WITNESS: Here we go.</p> <p>7 MR. WHELAN: -- November 30th. Yeah, 8 do it on the inside.</p> <p>9 THE WITNESS: I am missing the Corpus 10 Christi port logbook. Pallets were loaded and 11 unloaded. What was the date? It seems like this 12 logbook lacks the Corpus Christi details. It ends 13 with Townsville. And this one also didn't -- that 14 port was after --</p> <p>15 MR. WHELAN: Well, then go from the 16 stow plan.</p> <p>17 THE WITNESS: From the stow plan, 13 18 and 9, that was -- Corpus Christi. Oh, here it is. 19 Hatch 1A there was a discharge to Corpus Christi, 91 20 pallets, and Brisbane, 168, and Mackay, 9, 21 Townsville, 213. Okay. 3A, yeah, so there was a 22 discharge from 1A as they referred to it here, 1A.</p> <p>23 Q. (BY MR. GRUBER): Okay. But all I'm 24 interested in is whether there were any cargo 25 operations in the number two hatch in Corpus Christi.</p>	<p style="text-align: right;">117</p> <p>1 the number two hatch at Jacksonville?</p> <p>2 A. Correct.</p> <p>3 Q. So between -- well, actually, the last port 4 in Australia was Brisbane, correct?</p> <p>5 A. Correct.</p> <p>6 Q. And as I read the stowage plan, the cargo 7 that was stowed in the number 2D hatch was Townsville 8 cargo?</p> <p>9 A. Correct.</p> <p>10 Q. So the last cargo operations -- there were 11 no cargo -- strike that.</p> <p>12 There were no cargo operations at 13 number 2D between Townsville and Wilmington, 14 Delaware. Is that fair to say?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. While the ship was at sea, at any 17 time between Australia and Wilmington, would it have 18 been necessary or was it necessary for anybody to use 19 the forward access lid at the number two hatch, 2C 20 level?</p> <p>21 A. No.</p> <p>22 Q. Okay. You had mentioned before -- and I 23 forget in what context -- but something to do with 24 ice bucket or buckets or something?</p> <p>25 A. Yeah.</p>

<p style="text-align: right;">118</p> <p>1 Q. That was in the Port of Wilmington that was</p> <p>2 done?</p> <p>3 A. After completion of discharge we did this</p> <p>4 what we call ice-bucket temperature testing of our</p> <p>5 sensors in order to get USDA accreditation.</p> <p>6 Q. Was that right before the ship left port?</p> <p>7 A. Yes.</p> <p>8 Q. All right. We will get to that.</p> <p>9 MR. GRUBER: Now, may I just see the</p> <p>10 first log -- or no, the logbook that would cover</p> <p>11 Wilmington.</p> <p>12 (Mr. Whelan complies)</p> <p>13 MR. GRUBER: Thank you.</p> <p>14 MR. WHELAN: The Wilmington?</p> <p>15 MR. GRUBER: Yeah.</p> <p>16 THE WITNESS: It's in the November 1.</p> <p>17 Q. (BY MR. GRUBER): Yeah. Because I have a</p> <p>18 document that's a port log, which I have marked as</p> <p>19 P-22. Is this -- is this an excerpt from --</p> <p>20 MR. WHELAN: Static.</p> <p>21 Q. (BY MR. GRUBER): -- from the deck log to</p> <p>22 the vessel?</p> <p>23 MR. WHELAN: It's -- just for the</p> <p>24 record, so no one's confused, this log's a little</p> <p>25 different from what I think you and I are used to</p>	<p style="text-align: right;">120</p> <p>1 it or a copy of it before.</p> <p>2 A. Yeah.</p> <p>3 Q. What is that?</p> <p>4 A. This is the statement of facts that the</p> <p>5 agency draws up after a port call.</p> <p>6 Q. Is that -- did you get a copy of that --</p> <p>7 A. Yeah.</p> <p>8 Q. -- in the normal course of business?</p> <p>9 A. Yes.</p> <p>10 Q. And who actually prepares that document?</p> <p>11 A. Who? The agent, the shipping line's agent.</p> <p>12 Q. Was that a representative of the shipping</p> <p>13 line's agent on board the ship during cargo</p> <p>14 operations?</p> <p>15 A. Not all of the time, no.</p> <p>16 Q. Well, where did he or she get their</p> <p>17 information from to complete that document, do you</p> <p>18 know?</p> <p>19 A. Usually from the stevedore company.</p> <p>20 MR. WHELAN: It's S-T-E-V-E-D-O-R-E.</p> <p>21 THE WITNESS: But it depends on the</p> <p>22 port. Some ports have different setups, different</p> <p>23 arrangements.</p> <p>24 Q. (BY MR. GRUBER): Okay.</p> <p>25 MR. WHELAN: Do you want that back?</p>
<p style="text-align: right;">119</p> <p>1 seeing.</p> <p>2 MR. GRUBER: Yeah.</p> <p>3 MR. WHELAN: Because the sea</p> <p>4 passage -- and the captain can explain this -- is in</p> <p>5 the front and the <del>forward</del> activities are in the back.</p> <p>6 MR. GRUBER: Yeah, I wondered about</p> <p>7 that.</p> <p>8 MR. WHELAN: So, Captain, there's a</p> <p>9 pending question. Does this -- is this out of the --</p> <p>10 what we have marked as P-33, the official integrated</p> <p>11 log?</p> <p>12 THE WITNESS: Let me check. Page 34?</p> <p>13 MR. WHELAN: Yes.</p> <p>14 THE WITNESS: So P-22 is part of P-33.</p> <p>15 Q. (BY MR. GRUBER): And who actually made</p> <p>16 that -- did that -- filled out that port log?</p> <p>17 A. It's first filled out in the actual deck</p> <p>18 logbook by the attending officer on duty, so that is</p> <p>19 the chief officer or second officer. They take duty</p> <p>20 shifts. And after that the chief officer writes it</p> <p>21 into this official log.</p> <p>22 Q. Okay. So P-22 is a copy of a portion of</p> <p>23 the vessel's deck log.</p> <p>24 I will also show you a document that's</p> <p>25 marked P-27. I don't know whether you have ever seen</p>	<p style="text-align: right;">121</p> <p>1 MR. GRUBER: Yeah.</p> <p>2 Q. (BY MR. GRUBER): Now, did Mr. Jansen come</p> <p>3 on board the ship while it was in Wilmington?</p> <p>4 A. As I recall, he joined earlier, before</p> <p>5 then. Possibly before Jacksonville I'm sure. Maybe</p> <p>6 even Corpus Christi or Everglades. I'm not sure.</p> <p>7 One of the two.</p> <p>8 Q. According to the crew list, which we have</p> <p>9 marked as P-23, Mr. Jansen came board November 24th,</p> <p>10 2002. So was the ship in Port Everglades or</p> <p>11 somewhere?</p> <p>12 MR. WHELAN: The witness is checking</p> <p>13 the logbook, Exhibit 33.</p> <p>14 THE WITNESS: Jacksonville.</p> <p>15 Q. (BY MR. GRUBER): Jacksonville?</p> <p>16 A. Yeah, Jacksonville.</p> <p>17 Q. Okay.</p> <p>18 A. So I was wrong with Port Everglades. So it</p> <p>19 was Jacksonville.</p> <p>20 Q. All right. And did he stay on board the</p> <p>21 ship until it arrived at Wilmington?</p> <p>22 A. Yes.</p> <p>23 Q. And at some point while the ship was in</p> <p>24 Wilmington, did he depart?</p> <p>25 A. Yes.</p>



<p style="text-align: right;">122</p> <p>1 Q. What was his purpose on being aboard the</p> <p>2 ship?</p> <p>3 A. His purpose is what we call a vessel visit,</p> <p>4 and during this visit he checks on the status of the</p> <p>5 ship and sets out the maintenance, scope of</p> <p>6 maintenance and other land projects for the near</p> <p>7 future.</p> <p>8 Q. Was this considered one of those internal</p> <p>9 audits that are mentioned in the manual, the QA</p> <p>10 manual?</p> <p>11 A. No.</p> <p>12 Q. But is this the type of thing that you do</p> <p>13 now in your capacity --</p> <p>14 A. Yes, correct.</p> <p>15 Q. -- as vessel superintendent?</p> <p>16 A. Yes.</p> <p>17 Q. Were cargo operations going on during the</p> <p>18 time that Mr. Jansen was there in Wilmington?</p> <p>19 A. Yes.</p> <p>20 Q. Do you know whether he had an opportunity</p> <p>21 to go in and out of the cargo holds?</p> <p>22 A. The opportunity, yes, was --</p> <p>23 Q. Well, that's a bad question.</p> <p>24 Did he go in and out of the cargo</p> <p>25 hold?</p>	<p style="text-align: right;">124</p> <p>1 MR. WHELAN: Yeah, which is the</p> <p>2 listing on that exhibit.</p> <p>3 THE WITNESS: So he stayed on until</p> <p>4 Wilmington to hand over and familiarize the new</p> <p>5 chief.</p> <p>6 Q. (BY MR. GRUBER): Right.</p> <p>7 A. So I think the date listed for the official</p> <p>8 handover, 26 October may -- I think that's the Panama</p> <p>9 Canal crossing when the other chief engineer joined.</p> <p>10 Q. Well, yeah, I guess that's what confused</p> <p>11 me, because I couldn't find Mr. Bal -- maybe he's</p> <p>12 there, but I couldn't find him listed as being on</p> <p>13 there in August, but he would have been --</p> <p>14 A. Yeah, he was -- he was there.</p> <p>15 Q. And he was there for the two weeks</p> <p>16 before --</p> <p>17 A. Yeah.</p> <p>18 Q. -- before August 30th?</p> <p>19 A. Yeah.</p> <p>20 MR. WHELAN: And he, indeed, will be</p> <p>21 here and tell you about that.</p> <p>22 MR. GRUBER: I know he will. Not that</p> <p>23 I will -- I may not even ask it.</p> <p>24 Q. (BY MR. GRUBER): Okay. Now, let's take a</p> <p>25 look at the port log, which is Exhibit P-22.</p>
<p style="text-align: right;">123</p> <p>1 A. I'm sure, but I cannot recall any specific</p> <p>2 date or time, but I'm sure he -- he went in, yeah.</p> <p>3 Q. Okay. Now, also during the course of that</p> <p>4 voyage -- well, let me see if I'm confused here --</p> <p>5 there was a change in chief engineer, some type of</p> <p>6 change took place?</p> <p>7 A. Yes.</p> <p>8 Q. What happened there?</p> <p>9 A. The new chief engineer arrived in the</p> <p>10 Panama Canal, and in order to hand over and instruct</p> <p>11 the new chief engineer on the new ship, the chief</p> <p>12 engineer, Balvert, stayed on until Wilmington, so she</p> <p>13 had an overlap of about ten days, two weeks.</p> <p>14 Q. Well, on the last page of P-23 it says --</p> <p>15 at least as I read it -- Mr. Balvert joined the ship</p> <p>16 on October 26th, 2002?</p> <p>17 MR. WHELAN: Just a -- do you want me</p> <p>18 to tell you what that means, or would you rather not?</p> <p>19 MR. GRUBER: Yeah, I want information.</p> <p>20 It's like I always do with you.</p> <p>21 MR. WHELAN: No, I think what that is</p> <p>22 is that's the day that he formally turned over the</p> <p>23 command of chief engineer and he became a</p> <p>24 supernumerary.</p> <p>25 MR. GRUBER: Supernumerary, okay.</p>	<p style="text-align: right;">125</p> <p>1 MR. WHELAN: P? You're at --</p> <p>2 THE WITNESS: 34, yeah.</p> <p>3 MR. WHELAN: Okay, we will stick with</p> <p>4 P-22. Okay.</p> <p>5 Q. (BY MR. GRUBER): And actually, it doesn't</p> <p>6 have anything to do with this, but with this type of</p> <p>7 loading and discharging operation, is there a</p> <p>8 breakout portion of the stow that -- typically I</p> <p>9 think in terms of there being a breakout portion that</p> <p>10 has to be discharged first so you can get forklifts</p> <p>11 in. Is that true with this type of arrangement as</p> <p>12 well?</p> <p>13 A. Yes.</p> <p>14 Q. And the breakout is located in what portion</p> <p>15 of the hatch?</p> <p>16 A. It's located exactly under the hatch cover,</p> <p>17 which we refer to as the hatch square.</p> <p>18 Q. Now, in order to discharge the breakout,</p> <p>19 what has to be done?</p> <p>20 A. The pallet cage would have to be parked,</p> <p>21 and only the trolley with the spreader would lower to</p> <p>22 the deck and lift out the breakout by nylon <del>sticks</del> <i>slings</i></p> <p>23 Q. Okay. So you wouldn't be using the</p> <p>24 elevator for that?</p> <p>25 A. Yeah. It's part of the elevator.</p>



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<p style="text-align: right;">126</p> <p>1 Q. Oh, it is an elevator?</p> <p>2 A. The elevator consists of the trolley and</p> <p>3 the spreader and then the pallet cage. So now the</p> <p>4 pallet cage is off and you just have this --</p> <p>5 MR. WHELAN: Putting the cage on the</p> <p>6 pier?</p> <p>7 MR. GRUBER: Yeah.</p> <p>8 THE WITNESS: No. There's a parking</p> <p>9 spot for it.</p> <p>10 MR. WHELAN: On the ship?</p> <p>11 THE WITNESS: Yeah, there's a parking</p> <p>12 spot on the ship.</p> <p>13 MR. JANSEN: You must see it to --</p> <p>14 THE WITNESS: Yeah, it's quite --</p> <p>15 Q. (BY MR. GRUBER): But then after the</p> <p>16 breakout, then the forklift can be loaded?</p> <p>17 A. Yeah, yeah.</p> <p>18 Q. Okay. Now, typically as I understand it</p> <p>19 then, in the particular hatch level that you are</p> <p>20 working, do you stop, turn off the cooling system?</p> <p>21 A. Yes.</p> <p>22 Q. Why?</p> <p>23 A. That have -- we get complaints from</p> <p>24 <del>stevedores</del> stewards that they are freezing up.</p> <p>25 Q. Okay. And that can be done from the engine</p>	<p style="text-align: right;">128</p> <p>1 have long not been there.</p> <p>2 Q. But you don't remember any specific</p> <p>3 conversation?</p> <p>4 A. No, no.</p> <p>5 Q. Do you remember any discussion with the</p> <p>6 stevedore representatives regarding whether this was</p> <p>7 a new operation for them?</p> <p>8 A. I don't specifically recall it, but we had</p> <p>9 to, because without a specific discussion on how to</p> <p>10 operate this ship, we could not have started.</p> <p>11 Q. And you knew, of course, that they would be</p> <p>12 discharged from the 2D in Wilmington, correct?</p> <p>13 A. Yes.</p> <p>14 Q. And did you in any way tell the stevedore's</p> <p>15 representative that they were not to use the forward</p> <p>16 end accessway in the number two hatch?</p> <p>17 A. No. They could use both accesses.</p> <p>18 Q. All right. And in the Port of Wilmington,</p> <p>19 according to the port log, cargo operations started</p> <p>20 at 2D for the first time on November 7th; is that</p> <p>21 correct? On Page 35 I think.</p> <p>22 A. Yeah.</p> <p>23 Q. Is that right?</p> <p>24 A. Correct, November 7, 2D, there was a</p> <p>25 discharge.</p>
<p style="text-align: right;">127</p> <p>1 room you say?</p> <p>2 A. Yes. So the routine is that the deck</p> <p>3 officer notices that the above deck is nearing to be</p> <p>4 discharged. Then he would call the engine room and</p> <p>5 tell, "Okay, please switch off the next deck's</p> <p>6 cooling." And after they confirm that, then he can</p> <p>7 eventually open up the next deck.</p> <p>8 Q. Okay. Do you remember having a meeting --</p> <p>9 or let me strike that.</p> <p>10 Typically would it be you and/or the</p> <p>11 chief officer who would meet with stevedore</p> <p>12 representatives when a vessel would arrive in port?</p> <p>13 A. Yes.</p> <p>14 Q. Both of you or one of you?</p> <p>15 A. Usually both, yes.</p> <p>16 Q. And do you recall any meeting that you had</p> <p>17 in Wilmington when the ship arrived around</p> <p>18 November 6th or 5th?</p> <p>19 A. No, I don't recall. I recall the foreman.</p> <p>20 Yeah, I recall speaking to him, and he even drove me</p> <p>21 around on the terminal to show me the port, how it</p> <p>22 operated there.</p> <p>23 Q. Was that your first time in the Port of</p> <p>24 Wilmington?</p> <p>25 A. Yes. The first time since 15 years, so I</p>	<p style="text-align: right;">129</p> <p>1 Q. That was in the afternoon, a little after</p> <p>2 2:00 o'clock in the afternoon?</p> <p>3 A. Yeah, 14:05.</p> <p>4 Q. And cargo operations stopped in 2D at a</p> <p>5 little before 6:00 o'clock in the evening, correct?</p> <p>6 A. Correct.</p> <p>7 Q. And then again on November 8th, if I'm</p> <p>8 reading this correctly, there were only two hatches</p> <p>9 working that day, number two and number three; is</p> <p>10 that right?</p> <p>11 A. Correct.</p> <p>12 Q. And number three was completed by 10:43 in</p> <p>13 the morning?</p> <p>14 A. Correct.</p> <p>15 Q. And the only hatch that was then working,</p> <p>16 and it was working between 11:10 and 1500, was hatch</p> <p>17 number two?</p> <p>18 A. Yes, correct.</p> <p>19 Q. And throughout that period of time cargo</p> <p>20 operations were going, they were discharging the</p> <p>21 cargo in 2D, correct?</p> <p>22 A. Correct.</p> <p>23 Q. Now, according to the QA manual, and I know</p> <p>24 in general, there was always an officer on watch</p> <p>25 during cargo operations, correct?</p>

<p style="text-align: right;">130</p> <p>1 A. Correct. They log these times.</p> <p>2 Q. Who was the officer on watch between 11:10</p> <p>3 and 1500 hours on November 8th?</p> <p>4 A. We usually have six-on/six-off shifts. So</p> <p>5 from 11:10 until noon would have been the chief</p> <p>6 officer. From noon until 1800 was the second</p> <p>7 officer.</p> <p>8 Q. When only one cargo hatch is being worked,</p> <p>9 what is the responsibility of the officer on watch or</p> <p>10 on deck?</p> <p>11 A. He looks after the ship's matters, the</p> <p>12 mooring lines, he keeps the log, and he looks after</p> <p>13 the equipment and any general interests.</p> <p>14 Q. Doesn't he have an obligation to observe</p> <p>15 cargo operations?</p> <p>16 A. Yeah, he observes that, yeah.</p> <p>17 Q. First of all, to see whether there was any</p> <p>18 damage to the cargo?</p> <p>19 A. Yes.</p> <p>20 Q. Whether there was any damage to the ship?</p> <p>21 A. Yes.</p> <p>22 Q. Was there any damage to the cargo or any</p> <p>23 damage to the ship while the vessel was in the Port</p> <p>24 of Wilmington in November 2002?</p> <p>25 A. As I recall, we had no cargo damage, and as</p>	<p style="text-align: right;">132</p> <p>1 Q. So at some point in time on November 7th,</p> <p>2 presumably before 1405, somebody would have opened</p> <p>3 the forward access hatch lid that we have been</p> <p>4 talking about?</p> <p>5 A. 1405? Yes.</p> <p>6 Q. Do you know who that would have been?</p> <p>7 A. The duty AB, who was on duty with the</p> <p>8 second mate.</p> <p>9 Q. Now I have seen reference to a Joel</p> <p>10 Medenilla.</p> <p>11 A. Yeah.</p> <p>12 Q. M-E-D-E-N-I-L-L-A.</p> <p>13 A. Yeah, probably him.</p> <p>14 Q. And at the end of cargo operations on</p> <p>15 November 7th, which was just before 6:00 o'clock in</p> <p>16 the evening, would the forward access hatch lid have</p> <p>17 been left open for the next day or would it have been</p> <p>18 closed?</p> <p>19 A. We would have closed it, because afterwards</p> <p>20 we would start the cooling again. Leaving the hatch</p> <p>21 open would have left a lot of cool air to escape and</p> <p>22 not have an efficient cooling system.</p> <p>23 Q. And again, that would have been done by the</p> <p>24 AB?</p> <p>25 A. By the AB, yeah.</p>
<p style="text-align: right;">131</p> <p>1 I recall, we had no ship's damage.</p> <p>2 Q. Okay. So, I'm sorry, who would have been</p> <p>3 the officer that was on duty between noon and 1500?</p> <p>4 A. The second officer, Jison is his name.</p> <p>5 Q. And what about you, what would you have</p> <p>6 been doing at that time?</p> <p>7 A. I know I was on board and --</p> <p>8 MR. WHELAN: You're saying from 1200</p> <p>9 to 1500?</p> <p>10 MR. GRUBER: 1200 to 1500.</p> <p>11 THE WITNESS: 1200? I was on board.</p> <p>12 We were coordinating the preparation for the USDA</p> <p>13 testing. So we had been in contact with the agent</p> <p>14 and the ship chandler for ice buckets and ice. And</p> <p>15 the USDA inspector, he had been on board to review</p> <p>16 our systems and to discuss with us the procedure. So</p> <p>17 we preplanned the testing for the afternoon.</p> <p>18 Q. (BY MR. GRUBER): Was Mr. Jansen still on</p> <p>19 board on November 8th?</p> <p>20 A. I think he left on that day. I think he</p> <p>21 left during that day, but I'm not a hundred percent</p> <p>22 sure.</p> <p>23 Q. Now, we know that 2D was worked on</p> <p>24 November 7th for a portion of the day.</p> <p>25 A. Yes.</p>	<p style="text-align: right;">133</p> <p>1 Q. Now --</p> <p>2 A. Because at 1806 they would start cooling,</p> <p>3 so before that they would close the lid and the hatch</p> <p>4 cover.</p> <p>5 Q. And on November 8th, it shows hatch number</p> <p>6 two at 0600 stopped cooling 2D and opened. Is that</p> <p>7 the time that that forward access hatch lid would</p> <p>8 have been opened by an AB?</p> <p>9 A. Yes, correct.</p> <p>10 Q. And would that have been Medenilla again?</p> <p>11 A. I think so, but we would have to check his</p> <p>12 schedule, because they had a rotating schedule.</p> <p>13 Q. Okay.</p> <p>14 A. But at 6:00 a.m., it might have been</p> <p>15 another AB.</p> <p>16 Q. Okay. But in any event, it would have been</p> <p>17 a ship's AB that opened it?</p> <p>18 A. Yes.</p> <p>19 Q. And it would have been at 0600?</p> <p>20 A. Yes.</p> <p>21 Q. And the longshoreman did not enter that</p> <p>22 hatch until 11:10 in the morning, correct?</p> <p>23 A. Yes.</p> <p>24 Q. Now, this testing that you told us about,</p> <p>25 according to the port log that we have been talking</p>

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<p style="text-align: right;">134</p> <p>1 about, is that where it says "testing of sensor by 2 USDA?"</p> <p>3 A. Yes.</p> <p>4 MR. WHELAN: Sensor's spelled with a 5 S.</p> <p>6 MR. GRUBER: I know.</p> <p>7 Q. (BY MR. GRUBER): That started at 1800 hours 8 or 6:00 o'clock?</p> <p>9 A. Yes.</p> <p>10 Q. And that finished at 2000 hours or 8:00 11 o'clock?</p> <p>12 A. Yes. <i>ship</i></p> <p>13 Q. And then the <i>ship</i> left after that sometime 14 that evening?</p> <p>15 A. Correct.</p> <p>16 Q. Now, what was being tested?</p> <p>17 A. During those two hours, the cargo hold's 18 temperature sensors, which are on each and every 19 deck -- there's air sensors and also fruit sensors -- 20 they have a long cable and they can be inserted into 21 fruit to monitor the actual pulp temperature during a 22 voyage, and then it can be certain that this complies 23 with the cooling instructions.</p> <p>24 Q. Okay.</p> <p>25 A. So it is an intense regime of temperature</p>	<p style="text-align: right;">136</p> <p>1 A. In every hatch we had radio communication 2 in order to make sure that the readout was good and 3 that we could proceed.</p> <p>4 Q. At every level of every hatch?</p> <p>5 A. Correct.</p> <p>6 Q. Did it make any difference whether the crew 7 members use the forward access hatch or the aft 8 access hatch?</p> <p>9 A. No. We use all. But we put the buckets 10 onto the elevator and brought them down to the decks, 11 and the crew members would go down the ladders and 12 take them off and distribute the buckets of ice.</p> <p>13 Q. Okay. Now, at some point the forward 14 access hatch cover at 2C had to have been closed 15 before the ship left port, or no?</p> <p>16 A. No. Because we would then go on a ballast 17 voyage. We would leave it open because during the 18 voyage, the ABs would sweep the cargo hold and remove 19 any cardboard or wood or any remains from plastic 20 wrap, and for this we would leave those accesses open 21 because they would be going up and down this hatch 22 and other many times with their brooms and buckets.</p> <p>23 Q. So when would have been the next time that 24 it would have been closed?</p> <p>25 A. We then proceeded southbound to Brazil, and</p>
<p style="text-align: right;">135</p> <p>1 checking during the voyage. So it's required by the 2 USDA.</p> <p>3 Q. Now, why did that require people going into 4 the hold with buckets of ice, did you say?</p> <p>5 A. Yeah. Because buckets of melting ice in 6 water typically have 0-degree Celsius temperature. 7 So if the sensors are inserted into these buckets and 8 stirred well, then you should get a 0-degree readout 9 in your computer system. If there's any offset, like 10 if it shows 0.3, you know that the sensor is faulty. 11 But if they all show 0.0, or what is permitted, 0.2, 12 they are okay and you do get a certificate. So it's 13 a quality check of your sensor calibration.</p> <p>14 MR. JANSEN: We do it at home as well.</p> <p>15 Q. (BY MR. GRUBER): Did you personally observe 16 this --</p> <p>17 A. Yes.</p> <p>18 Q. -- going on?</p> <p>19 A. I coordinated the shifting of buckets in 20 order to make it a speedy operation. Because we had 21 ten buckets and the surveyor wanted to do a fast 22 operation. So we complete one deck, shift them all 23 to the next, and we would coordinate that shifting 24 around.</p> <p>25 Q. In every hatch?</p>	<p style="text-align: right;">137</p> <p>1 there we stayed at anchor for about a week. And at 2 the end of that week, we started our routine which we 3 call precooling. That's when the cargo holds are 4 clean and ready for cargo. Then we start the hatches 5 to test the equipment and to bring the holds down to 6 their required temperature.</p> <p>7 Q. So it would have been done in Brazil?</p> <p>8 A. Yeah, at anchor in Brazil.</p> <p>9 Q. By an AB presumably?</p> <p>10 A. Correct.</p> <p>11 Q. Now, I know that you gave a statement to 12 somebody in this case around June 8th or June 9th, 13 2004. Do you recall that?</p> <p>14 A. No, I don't. Last -- last year?</p> <p>15 Q. Yeah.</p> <p>16 A. We made it -- yeah.</p> <p>17 Q. You do recall?</p> <p>18 A. Yeah, I recall, yeah.</p> <p>19 Q. Was Mr. Medenilla with you when you gave 20 that statement?</p> <p>21 A. I was in the office, so he was not present 22 with me at that time, no.</p> <p>23 Q. Were you present when he gave his 24 statement?</p> <p>25 A. No.</p>

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<p>138</p> <p>1 Q. Did you talk to him about what he recalled?</p> <p>2 A. No.</p> <p>3 Q. So you have no idea what's in his</p> <p>4 statement?</p> <p>5 A. No.</p> <p>6 Q. You haven't seen it?</p> <p>7 A. I don't recall, but I have never seen it.</p> <p>8 Q. Do you have any firsthand information</p> <p>9 regarding anything about Mr. Turner and the accident</p> <p>10 he claims to have had aboard the ship on</p> <p>11 November 8th, 2002?</p> <p>12 A. Not first, only secondhand, from what I</p> <p>13 report -- what was reported to me through the</p> <p>14 company.</p> <p>15 Q. Now, I take it you continued to use that</p> <p>16 forward access hatch lid at 2C after you left</p> <p>17 Wilmington?</p> <p>18 A. Yeah.</p> <p>19 Q. And were there any repairs or modifications</p> <p>20 made to it while you were on board the ship?</p> <p>21 A. No.</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>140</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>141</p> <p>1 mine's not marked HH. But I will mark mine. Oh, you</p> <p>2 marked it yourself.</p> <p>3 MR. GRUBER: I didn't mark it. I got</p> <p>4 it from you.</p> <p>5 MR. WHELAN: That's not me.</p> <p>6 MR. GRUBER: Why would I mark</p> <p>7 something HH?</p> <p>8 MR. WHELAN: Well, no, I say it in my</p> <p>9 letter.</p> <p>10 MR. GRUBER: You know what? Maybe I</p> <p>11 did.</p> <p>12 MR. WHELAN: Yeah, because I say it in</p> <p>13 my letter. So one's HH and the other one's II?</p> <p>14 MR. GRUBER: Yeah, that's II.</p> <p>15 MR. WHELAN: Let me just mark them.</p> <p>16 MR. GRUBER: That's right. That's not</p> <p>17 my handwriting, but I may have had it done.</p> <p>18 Q. (BY MR. GRUBER): Okay. Anyway, this is an</p> <p>19 exhibit that's marked HH. Do you have any idea who</p> <p>20 these people are, Gibson, Minto, M-I-N-T-O, &amp; Aiton,</p> <p>21 A-I-T-O-N?</p> <p>22 A. No.</p> <p>23 Q. And this is a letter that's written in</p> <p>24 October 2000 to China Shipbuilding Corporation. And</p> <p>25 the third paragraph of that letter says, "Handgrips</p>

<p style="text-align: right;">142</p> <p>1 to a height of 1000 millimeters should be fitted</p> <p>2 above all main deck access openings."</p> <p>3 Do you have any idea what they are</p> <p>4 talking about there, what handgrips?</p> <p>5 A. A height of a thousand millimeters should</p> <p>6 be fitted above all main decks. So they are</p> <p>7 discussing the main deck, which is the upper deck of</p> <p>8 the ship where you access from outside into the hold?</p> <p>9 Q. (Nods).</p> <p>10 A. So all those access openings should be</p> <p>11 fitted with handgrips. It could mean that they mean</p> <p>12 a handgrip which is a hundred millimeters -- a</p> <p>13 thousand millimeters in height but it could also mean</p> <p>14 a handgrip positioned a thousand <sup>millimeters</sup> meters in height, so</p> <p>15 that's --</p> <p>16 Q. Do you know that such handgrips were in</p> <p>17 fact installed or a part of the LUZON STRAIT when you</p> <p>18 came aboard?</p> <p>19 A. I do not know for sure, but in the access</p> <p>20 to hold number two's main deck, I know there is</p> <p>21 handholds, yeah, going from the deck house through</p> <p>22 the main deck into the A deck, yeah.</p> <p>23 Q. So the purpose of those handholds is what</p> <p>24 at the main deck access level?</p> <p>25 A. To grab onto.</p>	<p style="text-align: right;">144</p> <p>1 A. Because then the hatch, that lid should</p> <p>2 have opened forward and it opens port.</p> <p>3 Q. All right. Just a few more questions and</p> <p>4 we're done.</p> <p>5 Just going back to these photographs</p> <p>6 that we used for the access hatch lid at the aft end</p> <p>7 of 2C. Oh, I'm sorry, those were 18E, J -- well, we</p> <p>8 can just use 18J for now.</p> <p>9 The size -- we see the hook that's</p> <p>10 shown in the photograph. Now that hook, I think you</p> <p>11 will agree with me, is substantially different in</p> <p>12 size than the hook that was in use to secure the</p> <p>13 hatch lid at the forward end of 2C. Am I correct</p> <p>14 about that?</p> <p>15 MR. WHELAN: Object to form of the</p> <p>16 question, but I'm --</p> <p>17 Q. (BY MR. GRUBER): No?</p> <p>18 A. No, I think not. I would estimate that in</p> <p>19 length and diameter of the steel it is the same or</p> <p>20 similar.</p> <p>21 Q. Well, let me -- hold on a minute. Looking</p> <p>22 at Photograph DD and Photograph FF-3 and comparing</p> <p>23 that with the hook that was shown in Photograph 18J,</p> <p>24 are you saying it's the same length and thickness?</p> <p>25 A. Yeah.</p>
<p style="text-align: right;">143</p> <p>1 Q. Coming in and out of that main access?</p> <p>2 A. Yeah.</p> <p>3 Q. Pardon me?</p> <p>4 A. Yes.</p> <p>5 Q. Is there a hatch cover there?</p> <p>6 A. Yes.</p> <p>7 Q. But there's also a separate hand --</p> <p>8 handhold?</p> <p>9 A. Yeah. I think in two -- hold number two's</p> <p>10 access, I think the hatch lid opens up sideways where</p> <p>11 the ladder is to the bulkhead, so there you need the</p> <p>12 grips because you don't have the lid to hold onto,</p> <p>13 because the lid is on the port side and the ladder is</p> <p>14 forward.</p> <p>15 Q. Uh-huh.</p> <p>16 A. Which is different from the other</p> <p>17 constructions where they had -- the lid is on the</p> <p>18 same side as the ladder.</p> <p>19 Q. Why isn't the lid on the same side as the</p> <p>20 ladder? Is there some reason it couldn't have been</p> <p>21 on the same size as the ladder -- same side as the</p> <p>22 ladder? I'm sorry.</p> <p>23 A. Yeah, they could have done that, but</p> <p>24 obviously they didn't.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">145</p> <p>1 Q. Pardon me?</p> <p>2 A. Yeah, I would -- I would estimate, and what</p> <p>3 I recall is that these all were the same length and</p> <p>4 thickness. Here you see the photo of it. It's</p> <p>5 difficult to compare. I'm trying to compare the</p> <p>6 handhold with the --</p> <p>7 Q. Yeah, I understand.</p> <p>8 MR. WHELAN: And you're asking him to</p> <p>9 do this by looking at these photographs?</p> <p>10 MR. GRUBER: I am.</p> <p>11 MR. WHELAN: Okay, in that regard I am</p> <p>12 going to object to him making an opinion on something</p> <p>13 like that. So to the best of his -- if he can from</p> <p>14 his recollection recall, but not from photographs.</p> <p>15 THE WITNESS: All these hooks were the</p> <p>16 same or very similar in size, length and diameter of</p> <p>17 the steel.</p> <p>18 Q. (BY MR. GRUBER): Are you aware of the</p> <p>19 existence of any drawings giving the dimensions of</p> <p>20 the hooks and eye or the hooks used for the access</p> <p>21 hatch lids in number two, both at the aft end and the</p> <p>22 forward end?</p> <p>23 A. No, I have never seen that.</p> <p>24 MR. GRUBER: Okay. Thank you very</p> <p>25 much. I appreciate your patience.</p>



<p style="text-align: right;">146</p> <p>1 THE WITNESS: You're welcome.</p> <p>2 MR. WHELAN: I just have a few cleanup</p> <p>3 questions before that. I am going to go backwards</p> <p>4 rather than from the beginning.</p> <p>5 THE WITNESS: The recent stuff.</p> <p>6 EXAMINATION</p> <p>7 Q. (BY MR. WHELAN): Okay. Do you know,</p> <p>8 Captain, whether the exact sizes of the hooks that</p> <p>9 Mr. Gruber asked you to compare --</p> <p>10 A. No.</p> <p>11 Q. -- do you know for a fact what their sizes</p> <p>12 are?</p> <p>13 A. No, I never measured them. I just know</p> <p>14 they are about a hand long, so I would guess 15</p> <p>15 centimeters or six-, seven-inch.</p> <p>16 Q. Okay.</p> <p>17 A. Or a -- thicker than a pen,</p> <p>18 eight millimeters.</p> <p>19 Q. Do we have the --</p> <p>20 MR. WHELAN: Stan, did you mark the</p> <p>21 New Zealand thing?</p> <p>22 MR. GRUBER: You mean II? That --</p> <p>23 MR. WHELAN: No, not -- I'm sorry, the</p> <p>24 Dutch thing. I want to mark that because he referred</p> <p>25 to it. I think that is the follow-up. I think I</p>	<p style="text-align: right;">148</p> <p>1 copy so I can look on?</p> <p>2 MR. WHELAN: Yeah, we will give you</p> <p>3 his.</p> <p>4 Q. (BY MR. WHELAN): We are looking at P-30.</p> <p>5 Captain, is that the report from the</p> <p>6 Dutch inspector that you recall being in Keelung to</p> <p>7 inspect the LUZON STRAIT during that period before</p> <p>8 you left the shipyard?</p> <p>9 A. Correct.</p> <p>10 Q. And could you tell us why this Dutch</p> <p>11 inspector came to your vessel and did this</p> <p>12 inspection?</p> <p>13 A. The ship was to be flagged under The</p> <p>14 Netherlands registration and the Dutch ship</p> <p>15 inspections. Before taking a ship into its <del>flight</del> <i>Flag</i>,</p> <p>16 they check for compliance to international</p> <p>17 conventions and also Dutch-specific regulations.</p> <p>18 Q. Okay. And did the inspector go into the</p> <p>19 cargo holds of the LUZON STRAIT?</p> <p>20 A. Yes.</p> <p>21 Q. Did he use the accesses both through the</p> <p>22 cooler rooms and through the deck accesses, both the</p> <p>23 forward and aft accesses for all of the cargo holds?</p> <p>24 A. Yes.</p> <p>25 Q. Did he ever bring to your attention any</p>
<p style="text-align: right;">147</p> <p>1 gave you my --</p> <p>2 MR. GRUBER: You gave me a copy, but I</p> <p>3 didn't mark it.</p> <p>4 MR. WHELAN: Can I use that copy to</p> <p>5 mark, because I don't have an extra.</p> <p>6 THE COURT REPORTER: Can I go off the</p> <p>7 record?</p> <p>8 MR. WHELAN: Yeah, off the record.</p> <p>9 (Discussion off the record)</p> <p>10 Q. (BY MR. WHELAN): Okay. Captain, during</p> <p>11 your testimony you talked -- when Mr. Gruber was</p> <p>12 asking about your stay in Keelung shipyard period,</p> <p>13 you made reference to the Dutch inspector, who spent</p> <p>14 you said approximately a week aboard the vessel.</p> <p>15 A. Yes.</p> <p>16 Q. Do you remember that?</p> <p>17 A. Yes.</p> <p>18 MR. GRUBER: I hate to interrupt, but</p> <p>19 we already have it. For some reason it's marked</p> <p>20 P-30.</p> <p>21 MR. WHELAN: So for the record, strike</p> <p>22 P-34. We will save that for whatever the next</p> <p>23 exhibit is. That's actually been marked as</p> <p>24 Exhibit P-30.</p> <p>25 MR. GRUBER: But do you have another</p>	<p style="text-align: right;">149</p> <p>1 problems that he saw with either the access covers,</p> <p>2 the ladders, or the securing devices for the access</p> <p>3 covers while he was in attendance?</p> <p>4 A. No, he did not. Because otherwise he would</p> <p>5 have inserted it on this list.</p> <p>6 Q. Okay. Is that the type of thing that he</p> <p>7 would inspect, entrances such as accesses?</p> <p>8 A. Yes.</p> <p>9 Q. Would -- while we're on that subject, when</p> <p>10 you were talking to Mr. Gruber about referencing the</p> <p>11 QA manual about entrances to -- there was the word</p> <p>12 "entrances" and that the officer of the ship prior to</p> <p>13 cargo operations should be assured that the entrances</p> <p>14 are in a safe condition.</p> <p>15 A. Yes.</p> <p>16 Q. Could entrances in that -- or does the</p> <p>17 reference to that entrance, would that also include</p> <p>18 entrances into the ship's house and any other type of</p> <p>19 entrances -- masthouse entrances and other</p> <p>20 entrances --</p> <p>21 A. Yes.</p> <p>22 Q. -- that longshoremen would use?</p> <p>23 A. Yes.</p> <p>24 Q. Or anyone would use for that matter?</p> <p>25 A. Correct.</p>

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<p style="text-align: right;">150</p> <p>1 Q. Okay. And was there one inspector or more 2 than one for the Dutch flag that was at attention? 3 A. There was two. But one of the gentlemen 4 left earlier. One was there five days, and the other 5 was there a week or a little bit more than a week. 6 Q. Okay. And as a result of this inspection, 7 this exhibit that we have marked P-30, this was 8 created and it's called "Inspection Report," and 9 there were certain items that he listed that needed 10 correction or attention at some point in time, 11 correct? 12 A. Correct. 13 Q. But those items did not stop you from 14 obtaining the certification to fly the flag of the 15 Netherlands? 16 A. Correct, that's the procedure. 17 Q. Okay. And did any of the open items have 18 anything to do with the access covers, the ladders 19 and the access that are in the cargo holds? 20 A. No. There's a -- there's a good example 21 that there's -- on one of the entrances into the bow 22 thruster room, he remarked that there was a locking 23 pin missing, so this gives an example into how much 24 detail he went, and he did remark that onto the -- 25 the access into the bow thruster room.</p>	<p style="text-align: right;">152</p> <p>1 with the weather deck or above the weather deck? 2 A. This typical one, which would be parallel 3 number four and number one, that would be elevated. 4 Q. Okay. 5 A. So not flush. 6 Q. Okay. And what about the main deck for 7 number two, would that be similar? 8 A. That one would be flush, because that is 9 inside of the deck house. 10 Q. Okay. 11 A. This one is outside on the deck. 12 MR. GRUBER: What page? 13 MR. WHELAN: On Page 7. 14 MR. GRUBER: Okay. 15 Q. (BY MR. WHELAN): So some of the main deck 16 accesses have a raised coaming so to speak? 17 A. Correct. 18 Q. Above -- is that because -- 19 A. On number one and number four. 20 Q. Is that because they are exposed to the 21 weather? 22 A. Correct. 23 Q. And so they have to be higher up? 24 A. Yeah. The ones for two and four are inside 25 of deck houses.</p>
<p style="text-align: right;">151</p> <p>1 MR. GRUBER: Could you give me the 2 number of that, please. 3 THE WITNESS: Item 7: "Securing pin 4 missing for BT entrance cover," so that's bow 5 thruster entrance hatch cover. But it shows the 6 level of detail he would go into in listing all of 7 these points that are to be attended to. 8 Q. (BY MR. WHELAN): Okay. Now, going to the 9 next point, is the main -- is the main deck 10 synonymous with weather deck? 11 A. Yes. 12 Q. And one of the questions that Mr. Gruber 13 was asking about, Exhibit II where they were talking 14 about handholds for the main deck, do you remember 15 that? 16 MR. GRUBER: That was HH. 17 Q. (BY MR. WHELAN): I'm sorry. HH. 18 A. Yeah. 19 Q. I am going to show you what has been marked 20 before as AA, Plaintiff's AA, which is the booklet of 21 plans that we went over in detail earlier. And 22 Page 7, that has the access on the weather deck; is 23 that correct? 24 A. Yes. 25 Q. Okay. And in that -- is that access flush</p>	<p style="text-align: right;">153</p> <p>1 Q. Okay. 2 A. No, two and three. Sorry, two and three. 3 Q. Now, going back to when you were in Brazil, 4 and that would be the time when you started your 5 cooling process after you had left Wilmington, and 6 you said that when you did the pre-cooling, that's 7 when the cover at 2C at the forward-end access would 8 be closed by an AB? 9 A. Yeah. 10 Q. And locked in place and the plug would be 11 put in for the gratings, correct? 12 A. Not yet. 13 Q. Not yet. Okay. Because you would be 14 loading? 15 A. Yeah, it still can be used before it needs 16 to be flushed for forklifts. 17 Q. Okay. But at the same time when you're 18 doing this cooling process, would the ABs also go in 19 and close the covers in the cooler rooms for the 20 various access levels? 21 A. Yes. 22 Q. And you were talking about when you were in 23 Wilmington and the USDA was doing these tests, and 24 the reason for the USDA tests is because they require 25 temperature records on fruit that you're carrying</p>

<p style="text-align: right;">154</p> <p>1 before it would be permitted to be brought back into 2 the United States; is that correct? 3 A. Yes, correct. 4 Q. So it's sort of a regulatory or a 5 government requirement to have these sensors? 6 A. Yes. 7 Q. And you had indicated that you were 8 bringing some buckets down with the pallet tray? 9 A. Yeah. 10 Q. And you said that they would use the access 11 at the forward end of number 2D because it's close to 12 a pallet tray -- 13 A. Close to the pallet, yes. 14 Q. -- to grab the bucket and go up to the next 15 level and down to the next level? 16 A. Yeah. 17 Q. And also when Mr. Gruber asked you about on 18 November 8th, which is the date of the alleged 19 accident, that at 0600 that was in the port log that 20 we were looking at, which is marked as P-33, that at 21 0600 the ship stopped cooling and then that's when 22 both the hatch covers would be open and the access 23 would be open for 2 -- leading from 2C to 2D; is that 24 correct? 25 A. Correct.</p>	<p style="text-align: right;">156</p> <p>1 anticipation of work; is that correct? 2 A. Possibly, yes. But I don't know if they 3 were aware of the times of completion for the date. 4 If they would have known prior to that date of 5 completion the continuation work would be the next 6 day, then maybe somebody didn't open it. 7 Q. Okay. Because then it would probably be 8 covered with cargo? 9 A. No, no. Because there's no use after an 10 hour you have to close it up again, without anybody 11 using it. 12 Q. Okay. 13 A. So the next day they knew this deck was 14 complete so somebody would. 15 Q. Open it? 16 A. Yeah. 17 Q. Now, when the 2D hatch is full to the 18 extent that this access that we have been -- you have 19 been testifying about here all day that leads from 2D 20 to 2C, if the cargo is blocking that access so it 21 can't be used, the method of getting in and out of 22 the hatch is either on the pallet tray for a 23 longshoreman -- 24 A. A portable ladder. 25 Q. -- or a portable ladder?</p>
<p style="text-align: right;">155</p> <p>1 Q. And at the same time, would the hatch 2 covers have to be opened as well? 3 A. Yes. 4 Q. And is there anything that also goes along 5 with safety precautions that have to do with the 6 hatch covers when they are open? 7 A. The first thing is to check if the locks 8 are in place so that the hatch cover cannot 9 accidentally close and the second is to put safety 10 lines, yellow and black lines on the sides of the 11 hatch. 12 Q. Because there's an opening there? 13 A. Yeah. 14 Q. Okay. And at that time would the access 15 also be opened in the cooler room at the aft-end 16 access for 2D so that it's opened all of the way 17 down? 18 A. Yes. 19 Q. Okay. And going back to the previous day, 20 which would be November 7th, again there was -- there 21 was testimony that someone would have opened when you 22 were working -- when the ship -- when the stevedores 23 were working 2D on the 7th for a brief period of time 24 that the accesses at the forward end would be open, 25 also the accesses at the aft end would be opened in</p>	<p style="text-align: right;">157</p> <p>1 A. Yeah. 2 Q. And the safer thing -- 3 A. Just to -- during the breakout. 4 Q. What would be the safer thing to do, riding 5 a pallet tray or using a portable ladder? 6 MR. JANSEN: Objection. 7 THE WITNESS: If I would choose, I 8 would use the -- the pallet tray. 9 Q. (BY MR. WHELAN): Okay. 10 A. Because you can stand in the center 11 and feel the -- 12 (Witness indicates) 13 Q. (BY MR. WHELAN): Okay. But you have seen 14 longshoremen use the portable ladder aboard the ship? 15 A. They -- they do it as a routine on regular 16 reefer ships. They take out the breakout, and then 17 they use a portable ladder to get down. They put in 18 the forklifts and they create more space. And after 19 that when they reach an opening, then they can use 20 the fixed ladders. But, yeah, it's customary to use 21 portable ladders for breakouts. 22 Q. You were talking about in response to 23 Mr. Gruber's questions the typical inspection and 24 maintenance routine for the access covers and the 25 securing devices for the access covers being whenever</p>

<p style="text-align: right;">158</p> <p>1 they are opened and closed, so that would hold true</p> <p>2 for the ladders and all of the other associated --</p> <p>3 A. Yeah.</p> <p>4 Q. -- equipment with the accesses?</p> <p>5 A. That's correct.</p> <p>6 Q. And would another item of maintenance be</p> <p>7 checking them to see if they needed to be painted and</p> <p>8 if so, they would be checked and painted?</p> <p>9 A. Yes. But this was a new ship, so it had a</p> <p>10 good coating of paint with no rust.</p> <p>11 Q. And then you were talking about from</p> <p>12 Tokyo -- I'm sorry, Tokyo Bay, Japan, loaded cars,</p> <p>13 and Mr. Gruber asked you whether the forward access</p> <p>14 cover at 2C was open when they were working 2D.</p> <p>15 Additionally, the aft access would be open and used</p> <p>16 if they -- or available to them if they wanted to use</p> <p>17 them; is that correct?</p> <p>18 A. Correct.</p> <p>19 Q. Are you a naval architect?</p> <p>20 A. No.</p> <p>21 Q. Okay. Now, when Mr. Gruber asked you about</p> <p>22 when you are in the shipyard and you're going up and</p> <p>23 down, you're looking for the accesses and the</p> <p>24 securing devices, you're also looking at other</p> <p>25 things; is that correct?</p>	<p style="text-align: right;">160</p> <p>1 But obviously at the shipyard this ladder was brand</p> <p>2 new and this photograph was taken in 2005; is that</p> <p>3 correct?</p> <p>4 A. Yeah. So we have to allow for wear and</p> <p>5 tear.</p> <p>6 Q. But that was not taken -- I just want to</p> <p>7 make sure you knew that was not taken at the</p> <p>8 shipyard.</p> <p>9 A. Yeah.</p> <p>10 MR. GRUBER: Oh, yeah, that was not --</p> <p>11 Q. (BY MR. WHELAN): Now, back to what was</p> <p>12 marked as AA, Plaintiff's AA, Mr. Gruber asked you</p> <p>13 about the page that shows H2 -- HT 2, which is Page 9</p> <p>14 of AA, which is the uninsulated access hatch lid, and</p> <p>15 asked you, well, there's no plan for -- that shows</p> <p>16 the securing device on this plan. Do you remember</p> <p>17 that?</p> <p>18 A. Yes.</p> <p>19 Q. And you answered, "No, there's not." And,</p> <p>20 in fact, though, for all of the accesses, no matter</p> <p>21 where it is, whether it's this one or any other one,</p> <p>22 there's no securing devices that are shown in any of</p> <p>23 these plans; is that correct?</p> <p>24 A. Yes, correct.</p> <p>25 Q. Okay. And you had indicated that when you</p>
<p style="text-align: right;">159</p> <p>1 A. Many.</p> <p>2 Q. Well, many things?</p> <p>3 A. Yes.</p> <p>4 Q. So you never from a naval architecture</p> <p>5 point of view did any review of the design or the</p> <p>6 calculations that had to do with those accesses or</p> <p>7 the securing devices, did you?</p> <p>8 MR. GRUBER: Object to form of the</p> <p>9 question.</p> <p>10 THE WITNESS: No. We just do a common</p> <p>11 sense and -- and from a -- from a mariner's point of</p> <p>12 view we check.</p> <p>13 Q. (BY MR. WHELAN): All right. I will try to</p> <p>14 ask it a non-legal way.</p> <p>15 What sort of check did you do when you</p> <p>16 are going in and out of the accesses in the ship</p> <p>17 yard?</p> <p>18 A. We do a check from a mariner's point of</p> <p>19 view and from a common sense point of view.</p> <p>20 Q. And Mr. Gruber had -- and this is just a</p> <p>21 picky thing, technical thing, but I'm -- just to be</p> <p>22 sure it's clear, he had showed you an Exhibit 18A,</p> <p>23 which I believe -- 18H, I'm sorry, which shows a</p> <p>24 ladder. I'm holding it upside down. And you say,</p> <p>25 yeah, that's same way as it looked at the shipyard.</p>	<p style="text-align: right;">161</p> <p>1 were at the shipyard, again Mr. Gruber asked you</p> <p>2 whether you used the aft access to go -- sorry, the</p> <p>3 forward access to go up and down while you were in</p> <p>4 the shipyard through number two.</p> <p>5 Did you also use the aft access in the</p> <p>6 cooler room to go up and down to familiarize yourself</p> <p>7 with that?</p> <p>8 A. Yes.</p> <p>9 MR. WHELAN: That's all I have. Thank</p> <p>10 you very much.</p> <p>11 FURTHER EXAMINATION</p> <p>12 Q. (BY MR. GRUBER): Captain, just one</p> <p>13 follow-up, really.</p> <p>14 You said that you looked at the access</p> <p>15 hatch lid that we have been talking about with a</p> <p>16 mariner's eye and with common sense. But you were</p> <p>17 the person as master of that vessel who was charged</p> <p>18 with the overriding responsibility for the safety of</p> <p>19 that ship, weren't you?</p> <p>20 MR. WHELAN: Object to the form of the</p> <p>21 question. You can answer.</p> <p>22 THE WITNESS: Okay. Within the scope</p> <p>23 of the job description as a QA system, yes.</p> <p>24 Q. (BY MR. GRUBER): The QA system says the</p> <p>25 master has overriding responsibility regarding the</p>

CAPTAIN MARTIJN MOBACH - JUNE 15, 2005

<p>162</p> <p>1 safety of the ship, correct?</p> <p>2 A. I think it's overriding authority.</p> <p>3 Q. Well, I'm quoting. It's responsibility.</p> <p>4 But authority and responsibility, I won't argue with</p> <p>5 you. But one thing it doesn't say is limited to a</p> <p>6 mariner's or common sense point of view. There's no</p> <p>7 qualifying. It says "overriding authority or</p> <p>8 overriding responsibility regarding the safety of the</p> <p>9 ship," correct?</p> <p>10 A. Yes.</p> <p>11 MR. GRUBER: Thank you. That's all I</p> <p>12 have.</p> <p>13 MR. WHELAN: Okay. Thank you.</p> <p>14 (Proceedings concluded at 3:26 p.m.)</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>164</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8 I declare under penalty of perjury that the</p> <p>9 foregoing is true and correct.</p> <p>10</p> <p>11</p> <p>12 CAPTAIN MARTIJN S. MOBACH</p> <p>13</p> <p>14</p> <p>15 SUBSCRIBED AND SWORN TO BEFORE ME, the</p> <p>16 undersigned authority, by the witness, CAPTAIN</p> <p>17 MARTIJN S. MOBACH, on this the ____ day of</p> <p>18 _____, 2005.</p> <p>19</p> <p>20</p> <p>21 NOTARY PUBLIC IN AND FOR</p> <p>22 THE STATE OF _____</p> <p>23</p> <p>24 My Commission Expires: _____</p> <p>25</p>
<p>163</p> <p>1 CHANGES AND SIGNATURE</p> <p>2 PAGE LINE CHANGE REASON</p> <p>3 _____</p> <p>4 _____</p> <p>5 _____</p> <p>6 _____</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22 _____</p> <p>23 _____</p> <p>24 _____</p> <p>25 _____</p>	<p>165</p> <p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE DISTRICT OF DELAWARE</p> <p>3</p> <p>4 JOHN TURNER )</p> <p>5 ) CIVIL ACTION</p> <p>6 vs. )</p> <p>7 ) NO. 04-936 (JJF)</p> <p>8 B.V. SHIPPING COMPANY )</p> <p>9 LUZON STRAIT (GRONINGEN) )</p> <p>10</p> <p>11 REPORTER'S CERTIFICATE</p> <p>12 ORAL DEPOSITION OF</p> <p>13 CAPTAIN MARTIJN S. MOBACH</p> <p>14 June 15, 2005</p> <p>15 I, Michelle Hartman-Solari, the undersigned</p> <p>16 Certified Shorthand Reporter and Registered</p> <p>17 Professional Reporter, certify that the witness was</p> <p>18 sworn and that the facts stated in the foregoing</p> <p>19 pages are true and correct.</p> <p>20 That the deposition transcript was duly</p> <p>21 submitted to the attorney for the witness for</p> <p>22 examination and signature.</p> <p>23 I further certify that I am neither attorney or</p> <p>24 counsel for, related to, nor employed by any parties</p> <p>25 to the action in which this testimony is taken and,</p> <p>26 further, that I am not a relative or employee of any</p> <p>27 counsel employed by the parties hereto or financially</p> <p>28 interested in the action.</p> <p>29 SUBSCRIBED AND SWORN TO by my hand on this the</p>



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1 30th day of June, 2005.

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Michelle Hartman-Solari, CSR, RPR

Texas CSR 7093

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Expiration: 12/31/2005

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## CHANGES AND SIGNATURE


PAGE	LINE	CHANGE	REASON
13	138/14	"Comoros Stream" should read	Comoros Stream
13	25	- / -	- / -
14	21	"Willan" should read	"WILLEM"
15	20	"Nautica" should read	"NAUTICAL"
17	16	"Dorse" should read	"North"
25	8-12-15	"Commuro" should read	"Comoros"
26	4	"Young" should read	"JUT"
30	10	"Aforeward" should read	"Forecastle"
35	2	"hydraulic ore" can be deleted	
43	23	"off" should read	"AFT"
96	20	"steward" should read	<del>"steward"</del> "stevedore"
97	4	"Yech" should be	"NO" since
		with cargo blocking the cooler room	
		stevedores could NOT have gotten into	
		the cargo hold via the cooler room.	
102	8	"postman" should read	"boatwain"
108	9	"main" should read	"main deck"
111	15	"coyht" should read	"called"
125	22	"sticks" should read	"slings"
126	24	"sewards" should read	"stevedores"
142	14	"meters" should read	"millimeters"
148	15	"flight" should read	"fles"

CAPTAIN MARTIJN MOBACH  
28 JULI 2005

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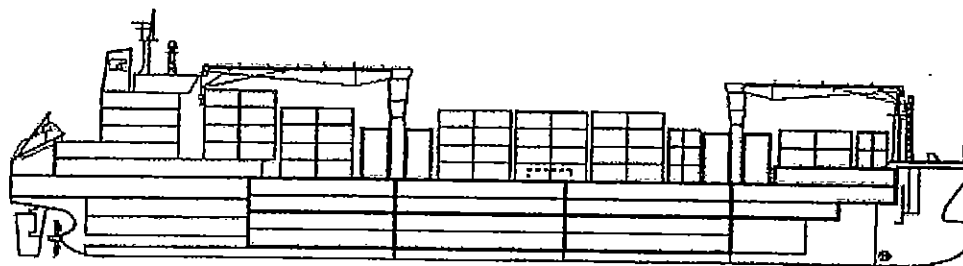
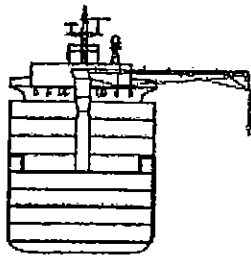
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8 I declare under penalty of perjury that the  
9 foregoing is true and correct.

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11   
12 \_\_\_\_\_  
13 CAPTAIN MARTIJN S. MOBACH  
14

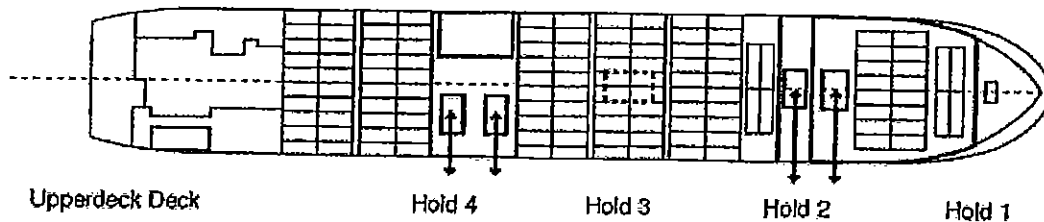
15 SUBSCRIBED AND SWORN TO BEFORE ME, the  
16 undersigned authority, by the witness, CAPTAIN  
17 MARTIJN S. MOBACH, on this the 28 day of  
18 July, 2005.  
19

20  
21 \_\_\_\_\_  
22 NOTARY PUBLIC IN AND FOR  
23 THE STATE OF \_\_\_\_\_

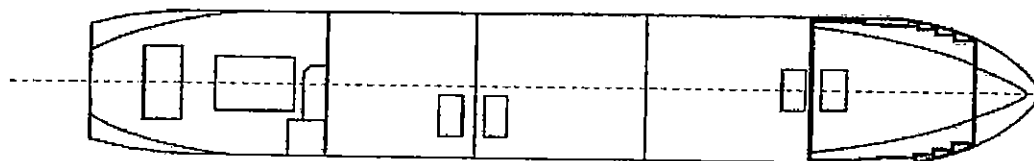
24 My Commission Expires: \_\_\_\_\_  
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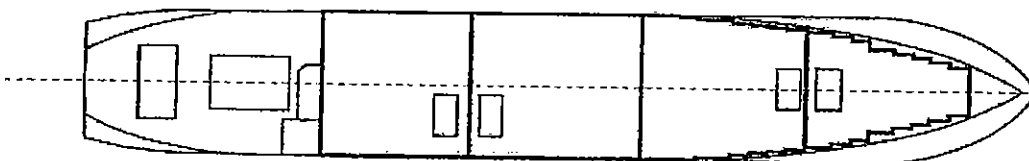
Weatherdeck



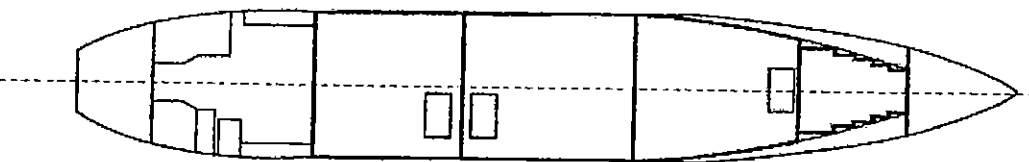
Upperdeck Deck



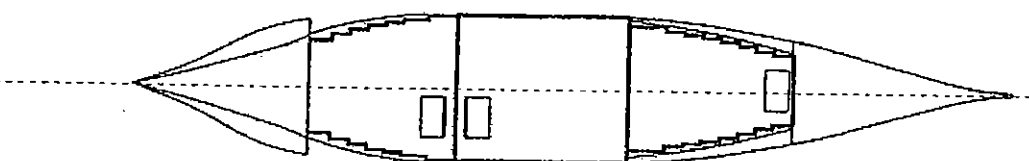
A Deck



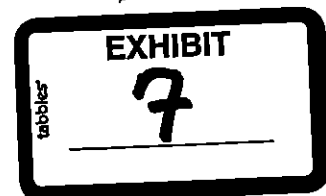
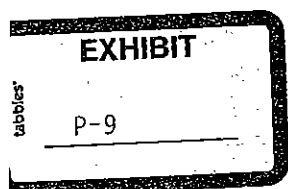
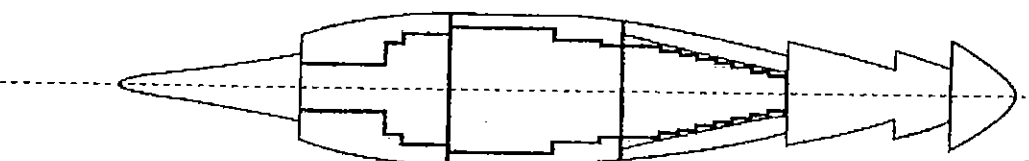
B Deck



C Deck



D Deck



**Hatch sizes on weatherdeck  
(metres)**

- 1) 1x3.30 X 6.00
- 2) 1x3.30 X 6.00
- 3) 1x3.30 X 6.00
- 4) 1x3.30 X 6.00

**Containers**

**Hold 1**

FC1: 47441 / 554,66  
A: 27797 / 327,69  
B: 14693 / 174,08

**Hold 2**

A: 52133 / 614,6  
B: 45853 / 543,29  
C: 38542 / 441,33  
D: 24048 / 284,19

**Deck**

440 TEU  
or 220 FEU

**cft/m<sup>2</sup> insulated deck**

**Hold 3**

A: 57199 / 674,3  
B: 56447 / 669,44  
C: 57100 / 653,28  
D: 42221 / 498,98

**Hold 4**

A: 48589 / 572,8  
B: 48239 / 571,54  
C: 43309 / 495,91  
D: 22400 / 264,46

**Holds**

-

Particulars believed to be correct but not guaranteed



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

JOHN TURNER )  
 ) CIVIL ACTION  
vs. )  
 ) NO. 04-936 (JJF)  
B.V. SHIPPING COMPANY )  
LUZON STRAIT (GRONINGEN) )

ORAL DEPOSITION

PIETER CORNELIS BORST

June 16, 2005

ORAL DEPOSITION OF PIETER CORNELIS BORST,  
produced as a witness at the instance of the  
Plaintiff and duly sworn, was taken in the  
above-styled and numbered cause on the 16th day of  
June, 2005, from 9:10 a.m. to 11:08 a.m., before  
Michelle Hartman-Solari, Certified Shorthand Reporter  
and Registered Professional Reporter, reported by  
computerized stenotype machine at the offices of the  
Motel Schiphol A4, Rijksweg A4 No. 3, 2132 MA  
Hoofddorp, The Netherlands, pursuant to the Federal  
Rules of Civil Procedure and the provisions stated on  
the record or attached hereto.





<p>6</p> <p>1 don't understand my question, just tell me, and I</p> <p>2 will rephrase the question until it make some sense</p> <p>3 to you.</p> <p>4 A. All right.</p> <p>5 Q. Because this is being taken down and you're</p> <p>6 under oath, if you answer a question, it will be</p> <p>7 assumed that you understood it, unless you tell me</p> <p>8 that you don't understand.</p> <p>9 In answering your questions, please do</p> <p>10 so verbally, as opposed to a nod or a shake of the</p> <p>11 head or an "uh-huh" or an "huh-uh." Even though you</p> <p>12 might know what my question is before I finish it,</p> <p>13 please do your best to wait until I finish my</p> <p>14 question and then you give your answer, and then I</p> <p>15 will wait until you finish your answer before I ask</p> <p>16 the next question.</p> <p>17 You're perfectly free to take a break</p> <p>18 at any time that you want to or confer with</p> <p>19 Mr. Whelan if you want to take a break and do that.</p> <p>20 All right?</p> <p>21 A. Okay.</p> <p>22 Q. Have you reviewed any documents or</p> <p>23 materials connection with preparing for this</p> <p>24 deposition?</p> <p>25 A. I saw in the file.</p>	<p>8</p> <p>1 review photographs and the drawings, the various</p> <p>2 drawings dealing with the ship?</p> <p>3 A. I know the vessel.</p> <p>4 Q. Okay. And you are employed by Seatrade</p> <p>5 Groningen at the present time?</p> <p>6 A. That's correct.</p> <p>7 Q. And how long have you been employed by that</p> <p>8 company?</p> <p>9 A. I've been employed by Seatrade Groningen</p> <p>10 for nine and a half years.</p> <p>11 Q. What's the date of birth, of your birth?</p> <p>12 A. 11 of July, 1959.</p> <p>13 Q. And do you hold any maritime licenses?</p> <p>14 A. Yes, I do.</p> <p>15 Q. Do you hold a master's license?</p> <p>16 A. Yes, I hold a master's license.</p> <p>17 Q. And when did you obtain your master's</p> <p>18 license?</p> <p>19 A. I obtained it in -- exact date I cannot</p> <p>20 recall, but that was already in 19 -- something like</p> <p>21 1990.</p> <p>22 Q. 1990?</p> <p>23 A. Yeah, yeah.</p> <p>24 Q. Okay. And that was here in</p> <p>25 The Netherlands?</p>
<p>7</p> <p>1 Q. You saw the file?</p> <p>2 A. A general file, but not all of the</p> <p>3 information.</p> <p>4 Q. Whose file was it?</p> <p>5 A. Just a general file which we have in the</p> <p>6 office.</p> <p>7 Q. Is that a file on the ship, the LUVON</p> <p>8 STRAIT?</p> <p>9 A. No.</p> <p>10 Q. It's a file regarding the accident?</p> <p>11 A. It is just a general information about the</p> <p>12 accident.</p> <p>13 MR. WHELAN: It's a portion of a</p> <p>14 claims file.</p> <p>15 Q. (BY MR. GRUBER): Were there any accident</p> <p>16 reports in that file?</p> <p>17 A. No. Well, I didn't see any accident</p> <p>18 reports in that file.</p> <p>19 Q. Okay. Was there a statement from</p> <p>20 Captain Mobach in the file?</p> <p>21 A. I didn't see that statement.</p> <p>22 Q. Was there a statement from able seaman</p> <p>23 Medenilla in the file?</p> <p>24 A. No, I didn't see that statement.</p> <p>25 Q. Okay. I assume you had an opportunity to</p>	<p>9</p> <p>1 A. That was here in The Netherlands.</p> <p>2 Q. Aside from -- and I assume you went to some</p> <p>3 sort of maritime college or university?</p> <p>4 A. Yes. I went to the maritime -- sorry, the</p> <p>5 maritime college.</p> <p>6 Q. Here in The Netherlands?</p> <p>7 A. In The Netherlands.</p> <p>8 Q. Do you hold any other degrees?</p> <p>9 A. I hold all of the degrees which are</p> <p>10 necessary to get the master license.</p> <p>11 Q. I understand. But besides being a licensed</p> <p>12 maritime officer, do you have any other degrees from</p> <p>13 the university?</p> <p>14 A. No.</p> <p>15 Q. Okay. Have you actually sailed as a</p> <p>16 master?</p> <p>17 A. Yes, I have.</p> <p>18 Q. How long have you done that?</p> <p>19 A. Two and a half, three years.</p> <p>20 Q. What type of ships?</p> <p>21 A. I sailed on several vessels. But as</p> <p>22 master, I sailed on container vessels, general</p> <p>23 purpose.</p> <p>24 Q. Did you ever serve as master aboard a</p> <p>25 reefer ship?</p>

<p>10</p> <p>1 A. No.</p> <p>2 Q. Did you ever serve as a licensed officer,</p> <p>3 chief mate, second officer, third officer aboard a</p> <p>4 reefer vessel?</p> <p>5 A. No.</p> <p>6 Q. So you have no seagoing experience aboard a</p> <p>7 reefer vessel; is that correct?</p> <p>8 A. I never sailed on reefer vessels.</p> <p>9 Q. Okay. Your experiences as a master, were</p> <p>10 they on board vessels that were managed by Seatrade?</p> <p>11 A. No, they were not managed by Seatrade.</p> <p>12 Q. Okay. When you first came to work for</p> <p>13 Seatrade, in what capacity was your first job?</p> <p>14 A. I started working for Seatrade in the same</p> <p>15 capacity as when I'm working now.</p> <p>16 Q. What is your job title?</p> <p>17 A. It's a Senior Quality Coordinator.</p> <p>18 Q. And what department are you in?</p> <p>19 A. In the quality department.</p> <p>20 Q. And who do you report to?</p> <p>21 A. I am reporting to the managing director.</p> <p>22 Q. That's Mr. --</p> <p>23 A. That's Mr. --</p> <p>24 Q. -- Karl-Heinz Hilbig? Am I pronouncing</p> <p>25 that properly?</p>	<p>12</p> <p>1 Seatrade?</p> <p>2 A. By that time I think 60 -- 65?</p> <p>3 MR. WHELAN: Just your best estimate,</p> <p>4 so --</p> <p>5 THE WITNESS: Yeah, 65.</p> <p>6 Q. (BY MR. GRUBER): Were they all reefer</p> <p>7 ships?</p> <p>8 A. With exceptions of two, two container</p> <p>9 vessels.</p> <p>10 Q. So it's fair to say that the ships that are</p> <p>11 managed by Seatrade are predominantly reefer or</p> <p>12 refrigerated-type vessels?</p> <p>13 A. Yes, that's correct.</p> <p>14 Q. Okay. Is there any particular reason why</p> <p>15 Seatrade has focused on managing reefer vessels as</p> <p>16 opposed to other types of ships?</p> <p>17 A. They started with reefer vessels, and</p> <p>18 that's all Seatrade is good at.</p> <p>19 Q. Now, in reading through some of the</p> <p>20 materials that I have been furnished, I have seen</p> <p>21 references to Fleet A and Fleet B.</p> <p>22 In 2002, which was the period of time</p> <p>23 that we are focusing on around November, did Seatrade</p> <p>24 break its ships down into two fleets in some fashion?</p> <p>25 A. It will be around 2002 that they split it</p>
<p>11</p> <p>1 A. Yeah, Hilbig.</p> <p>2 Q. And has he been the managing director</p> <p>3 throughout the time that you have been employed at</p> <p>4 Seatrade?</p> <p>5 A. He has been the managing director</p> <p>6 since 19--</p> <p>7 MR. JANSEN: 1998.</p> <p>8 THE WITNESS: -- 98? Yeah.</p> <p>9 Q. (BY MR. GRUBER): Are there other senior</p> <p>10 quality coordinators besides yourself?</p> <p>11 A. No.</p> <p>12 Q. Your office is located in Groningen?</p> <p>13 A. Yes.</p> <p>14 Q. And it's always been there?</p> <p>15 A. Yes.</p> <p>16 Q. That's the headquarters of your company?</p> <p>17 A. Yes, that's correct.</p> <p>18 Q. Now, what is the business of Seatrade?</p> <p>19 A. Seatrade is a management company.</p> <p>20 Q. You manage oceangoing vessels?</p> <p>21 A. Yes, that's correct.</p> <p>22 Q. Back in 19 -- or strike that. I wanted to</p> <p>23 say 1992.</p> <p>24 Back in 2002 in November,</p> <p>25 approximately how many ships were being managed by</p>	<p>13</p> <p>1 up in two groups.</p> <p>2 Q. And was that done in some sort of fashion</p> <p>3 that -- was it just arbitrary that, well, we will</p> <p>4 take so many ships and make that Fleet A and so many</p> <p>5 ships and make that Fleet B, or was there some reason</p> <p>6 why some ships would be in Fleet B and others would</p> <p>7 be in Fleet A?</p> <p>8 A. No, there was no particular reason to put a</p> <p>9 vessel in Fleet A or B. Just divided in two groups.</p> <p>10 Q. And what fleet was the LUZON STRAIT</p> <p>11 included in?</p> <p>12 A. The LUZON STRAIT is in group B by that</p> <p>13 time.</p> <p>14 Q. Now, as senior quality coordinator, what</p> <p>15 were your responsibilities -- if any, with regard to</p> <p>16 the managing of the fleets that were under management</p> <p>17 by Seatrade?</p> <p>18 A. For -- in my position I'm responsible for</p> <p>19 the -- for the quality system.</p> <p>20 Q. You are the person who is designated as --</p> <p>21 there's a terminology that's used I believe under the</p> <p>22 ISM code. Somebody ashore has to be designated as</p> <p>23 the person responsible?</p> <p>24 A. Yes, that's correct, I'm the designated</p> <p>25 person for Seatrade.</p>

<p>14</p> <p>1 Q. And are you the designated person for all</p> <p>2 of the ships that are managed by Seatrade?</p> <p>3 A. That's correct.</p> <p>4 Q. The quality assurance program that was</p> <p>5 developed for Seatrade, were you employed by Seatrade</p> <p>6 when the quality assurance program was published, put</p> <p>7 into effect?</p> <p>8 A. The quality system was put in effect in</p> <p>9 1996, March.</p> <p>10 Q. And we have already marked as Exhibits</p> <p>11 P-1(a), (b) and (c) three manuals: The quality</p> <p>12 assurance manual, the manual QAD-1 and the manual</p> <p>13 QAD-2. I know there is a fourth manual dealing with</p> <p>14 emergency situations --</p> <p>15 MR. WHELAN: Here. Oh, you have them</p> <p>16 there?</p> <p>17 Q. (BY MR. GRUBER): -- which I haven't marked.</p> <p>18 The quality assurance program is</p> <p>19 contained in these manuals; is that correct?</p> <p>20 A. That's correct.</p> <p>21 Q. Who or -- the work of preparing the manuals</p> <p>22 and the -- and the quality assurance program, which</p> <p>23 went into effect in March of '96, did you participate</p> <p>24 in that or was that -- who did this work?</p> <p>25 A. I started in -- in 1996 working for</p>	<p>16</p> <p>1 Q. In order to do that, what do you have to do</p> <p>2 or what do you do? I know that's a broad question,</p> <p>3 but --</p> <p>4 A. Yeah. First of all, what I said, I'm</p> <p>5 responsible to keep the quality system up to date.</p> <p>6 If there are any changes, then I will implement it,</p> <p>7 and that's regarding to international regulations or</p> <p>8 flag state regulations. I implement it in the</p> <p>9 manual. And furthermore, we keep track of -- how do</p> <p>10 you say it -- of -- we visit vessels for internal</p> <p>11 audits.</p> <p>12 MR. WHELAN: Did you get -- off the</p> <p>13 record a second.</p> <p>14 (Discussion off the record)</p> <p>15 THE WITNESS: The international</p> <p>16 regulations and flag state regulations. Then --</p> <p>17 MR. WHELAN: Okay, wait. So the</p> <p>18 reason why you sometimes supplement or modify the</p> <p>19 quality system is because there are -- there could be</p> <p>20 changes in regulations or flag state requirements; is</p> <p>21 that correct?</p> <p>22 THE WITNESS: That's correct.</p> <p>23 Q. (BY MR. GRUBER): Okay. Well, let's talk</p> <p>24 about that a little bit.</p> <p>25 First of all, why does Seatrade seek</p>
<p>15</p> <p>1 Seatrade, so the quality system was in effect by that</p> <p>2 time.</p> <p>3 Q. Okay. Do you know who it was that prepared</p> <p>4 it?</p> <p>5 A. It's -- by that time Michiel (ph) Schaap.</p> <p>6 Michiel (ph) Schaap. Mr. Schaap.</p> <p>7 Q. Spell it for me.</p> <p>8 A. S-C-H-A-A-P.</p> <p>9 Q. B?</p> <p>10 A. P, papa.</p> <p>11 Q. Is he still employed by -- or what was his</p> <p>12 position?</p> <p>13 A. He was quality coordinator for Seatrade by</p> <p>14 that time.</p> <p>15 Q. And you took his place?</p> <p>16 A. I took his place.</p> <p>17 Q. When you took his place, did you modify</p> <p>18 these manuals in any way?</p> <p>19 A. There were some modifications, but not that</p> <p>20 the documents were unapproved, but it's a living</p> <p>21 system.</p> <p>22 Q. Now, one of your responsibilities, I</p> <p>23 assume, is to make sure that the vessels are operated</p> <p>24 in compliance with the ISM code; is that correct?</p> <p>25 A. That's correct.</p>	<p>17</p> <p>1 to be in compliance with the ISM code? Why is that</p> <p>2 significant?</p> <p>3 A. We find it significant because we want to</p> <p>4 sail in the best way the vessels we could do.</p> <p>5 Q. Well, what is the ISM code?</p> <p>6 A. The ISM code is based on the safety</p> <p>7 employee's prevention for the vessels.</p> <p>8 Q. And who formulated the ISM code?</p> <p>9 A. The IMO formulated the ISM code.</p> <p>10 Q. I'm sorry, who?</p> <p>11 A. The I-M-O. Sorry. The International</p> <p>12 Maritime Organization.</p> <p>13 Q. Now, has Seatrade voluntarily assumed the</p> <p>14 responsibilities of the ISM code?</p> <p>15 A. Yes. We did it on a voluntary basis,</p> <p>16 because we started already in 1994, and regulations</p> <p>17 became into force in 2002, and we were certified in</p> <p>18 1996.</p> <p>19 Q. Well, when did they -- you say the</p> <p>20 regulations came into force or became up mandatory</p> <p>21 sometimes in 2002?</p> <p>22 A. In 2002.</p> <p>23 Q. Do you remember what month in 2002?</p> <p>24 A. The first of July 2002.</p> <p>25 Q. And if a ship was not in compliance with</p>



<p>18</p> <p>1 the ISM code after July 1st, 2002, what would be the</p> <p>2 significance of that?</p> <p>3 A. No. All our vessels were in compliance.</p> <p>4 But if a vessel is not in compliance, then the vessel</p> <p>5 is not allowed to sail.</p> <p>6 Q. Now, besides the ISM code, you mentioned</p> <p>7 other -- other authorities which Seatrade endeavors</p> <p>8 to comply with. Now, for example, I have seen</p> <p>9 reference to ISO -- and by the way, Isidor Sam --</p> <p>10 okay. But I have seen reference to ISO 9001-2000</p> <p>11 standard. What organization publishes that standard?</p> <p>12 A. ISO is the standard, which is an</p> <p>13 international standard, which we do on a voluntary</p> <p>14 basis because it's not applicable for shipping.</p> <p>15 Q. So, in other words, if you did not</p> <p>16 voluntarily seek to comply with that standard, it</p> <p>17 would not affect the ability of the ship to -- to</p> <p>18 sail?</p> <p>19 A. The ISO is not necessary for -- for us.</p> <p>20 Q. Okay. Now, besides the ISM code and the</p> <p>21 ISO standard that we just talked about, are you</p> <p>22 familiar with the code published by the International</p> <p>23 Labor Organization on safety and health and dock</p> <p>24 work?</p> <p>25 A. I know that there's a code. But familiar?</p>	<p>20</p> <p>1 A. Yes.</p> <p>2 Q. But in the -- you don't have this, this</p> <p>3 document?</p> <p>4 A. No, we don't have that document in our</p> <p>5 library.</p> <p>6 Q. Okay. Your quality assurance manuals apply</p> <p>7 to each vessel in the fleet; is that correct?</p> <p>8 A. That's correct.</p> <p>9 Q. Now, as a designated person, do you come</p> <p>10 into contact directly with the officers and crews of</p> <p>11 each vessel, or do you work through intermediaries or</p> <p>12 people in between?</p> <p>13 A. On a yearly basis I meet several people who</p> <p>14 work the vessels.</p> <p>15 Q. On a yearly basis you come into contact</p> <p>16 directly with the officers and crew of each vessel?</p> <p>17 A. Correct.</p> <p>18 Q. Is that on board ship or ashore or --</p> <p>19 A. That can be in the office or on board of</p> <p>20 the vessel.</p> <p>21 Q. Okay. Mr. Jansen here, do you come into</p> <p>22 contact with Mr. Jansen in the performance of your</p> <p>23 duties?</p> <p>24 A. That's correct.</p> <p>25 Q. And in what respect? How did you and he</p>
<p>19</p> <p>1 I cannot recall the contents.</p> <p>2 Q. Is The Netherlands a member nation of the</p> <p>3 ISO?</p> <p>4 A. I'm not a hundred percent sure, but we have</p> <p>5 parts of it.</p> <p>6 Q. Uh-huh. Well, let me show you -- I guess</p> <p>7 we can mark this as P-38.</p> <p>8 MR. GRUBER: Is that what we are up</p> <p>9 to? No, I think --</p> <p>10 (Discussion off the record, and</p> <p>11 Exhibit P-39 marked)</p> <p>12 Q. (BY MR. GRUBER): I am going to show you a</p> <p>13 document that's entitled, "Safety and Health in Dock</p> <p>14 Work," published by the International Labor</p> <p>15 Organization of the United Nations, I guess, and I</p> <p>16 would represent to you that this code has been, I</p> <p>17 would use the word, "sub-planted" or replaced in 2005</p> <p>18 by a broader code, but was in effect in 2002.</p> <p>19 But if you can just take a look at</p> <p>20 that and let me know if it's familiar to you at all.</p> <p>21 You can leap through the pages if you wish.</p> <p>22 A. We don't have this for the -- the ISM.</p> <p>23 Q. Okay. So, I assume that you maintained</p> <p>24 some sort of a library, which contains the ISM code,</p> <p>25 for example, the ISO standards?</p>	<p>21</p> <p>1 interact in doing your jobs?</p> <p>2 A. Mr. Jansen is also sitting in our office as</p> <p>3 operations manager, and we have contact about several</p> <p>4 items in the office and what goes on onboard.</p> <p>5 Q. In terms of the change of command, do you</p> <p>6 have any supervisory responsibility over Mr. Jansen,</p> <p>7 or does he function under somebody else's direction?</p> <p>8 A. No. We -- I'm reporting to the managing</p> <p>9 director. I'm in a staff function, and Mr. Jansen is</p> <p>10 in line function, so --</p> <p>11 Q. Who does he report to?</p> <p>12 A. Mr. Jansen is also reporting to the</p> <p>13 managing director.</p> <p>14 Q. Okay. How do his -- excuse me. I need to</p> <p>15 get some water. Break.</p> <p>16 (Recess taken)</p> <p>17 Q. (BY MR. GRUBER): How does Mr. Jansen -- if</p> <p>18 I'm pronouncing that directly -- how does his job</p> <p>19 differ from yours?</p> <p>20 A. I'm in a staff function and Mr. Jansen is</p> <p>21 in a line function.</p> <p>22 Q. Yeah, but that -- what does he do that you</p> <p>23 don't do? That -- that -- when you say he's in a</p> <p>24 line function, he's more hands-on as far as the ships</p> <p>25 are concerned?</p>

<p style="text-align: right;">62</p> <p>1 Mr. Gruber was asking you about questions about this  2 section, 10.3 of the ISM code, and you said that --  3 we were talking about critical equipment.  4 Could you give us some examples of  5 what is considered critical equipment aboard the  6 ship?  7 A. Critical equipment on board the vessels is  8 emergency fire pumps, emergency generator and  9 lifeboat engine. There are three good examples of  10 critical equipment.  11 Q. Okay. And anything else you can think of?  12 A. No. But it's the final of the equipment  13 which you can use at the latest moment to save your  14 life on board.  15 Q. At sea?  16 A. Yeah, at sea.  17 Q. Okay. And when Mr. Gruber was asking you  18 questions about regulations relating to securing  19 devices for access covers and the design of that, is  20 that something that you rely on, the class society  21 and the Dutch shipping entity that inspects the  22 vessel to make -- they are basically checking to make  23 sure everything in the way that the ship is  24 constructed and designed is in accordance with their  25 standards?</p>	<p style="text-align: right;">64</p> <p>1 vessel would that inspector typically go over in  2 connection with his certification of the vessel to  3 give the ship its flag?  4 A. The surveyor from the shipping inspection,  5 he is going all over the vessel, so he's checking  6 generally everything.  7 Q. Okay.  8 A. But also accommodations, engine room,  9 holds, structure.  10 Q. Would that include the accesses and the  11 holds?  12 A. Yes.  13 Q. Okay. And did either the class surveyor or  14 the Dutch shipping inspector, so as far as you know,  15 have any problem with the accesses?  16 A. No, they didn't have a problem with the  17 accesses.  18 Q. Okay. Now, you had -- in response to  19 Mr. Gruber's questions, you were talking about how  20 Seatrade as managers oversee the maintenance of the  21 gear and equipment aboard the ship.  22 Is it correct to say that that's done  23 on behalf of the owners of the vessel? In other  24 words, Seatrade is acting as manager on behalf of the  25 actual owners of the vessel?</p>
<p style="text-align: right;">63</p> <p>1 MR. GRUBER: Objection to the form of  2 the question.  3 THE WITNESS: Yes, I rely on the class  4 rules, flag state rules, and in this case shipping  5 inspection.  6 Q. (BY MR. WHELAN): Okay. After -- let me ask  7 it this way: After this ship was completed and  8 before it was sailed for the first time from Keelung,  9 Taiwan, did a class surveyor go on board to inspect  10 the vessel?  11 A. Yes.  12 Q. Okay. What parts of the vessel does a  13 class inspector have to look at in a situation like  14 this?  15 A. He inspects the whole vessel from top to  16 bottom.  17 Q. And what was the name of the classification  18 society if you recall?  19 A. In -- for the ISM code it was Lloyd's  20 Register.  21 Q. Okay. And with regard to class itself,  22 was it Veritas?  23 A. It was Veritas.  24 Q. And then with regard to the Dutch shipping  25 inspector that attended in Keelung, what parts of the</p>	<p style="text-align: right;">65</p> <p>1 A. Can you repeat your question?  2 Q. Okay. In other words, you're the -- what  3 Seatrade does in terms of technical management of the  4 vessel --  5 A. Yes.  6 Q. -- that's done on behalf of the actual  7 owners of the vessel?  8 A. Yes, correct.  9 Q. There was -- Mr. Gruber was asking you some  10 questions about how there was the Dutch safety  11 certificate --  12 A. Yes.  13 Q. -- for the vessel that was dated the  14 15th -- or was dated in any event before the audit  15 was completed and before the vessel sailed.  16 If the Dutch shipping inspector -- so  17 if you know the answer to this question -- didn't  18 have -- wasn't satisfied when he inspected the  19 vessel, could he have held that certificate back?  20 A. Yes. Because their certificate is in an  21 enclosed envelope, a sealed envelope.  22 Q. Now, we have marked as Plaintiff's  23 Exhibit 40 the Lloyd's Register Shipboard Audit  24 Report. Could you explain -- well, let me ask it --  25 is the purpose of this audit report to certify that</p>

<p>66</p> <p>1 this vessel was ISM-compliant?</p> <p>2 A. Yes, that's correct.</p> <p>3 Q. And what was the result of this audit that</p> <p>4 was done back in August of 2002?</p> <p>5 A. The result was positive.</p> <p>6 Q. Positive. So it was -- the vessel when it</p> <p>7 sailed on its maiden voyage was ISM-compliant?</p> <p>8 A. The vessel was ISM-compliant, and if we</p> <p>9 didn't get this certificate, then we were not allowed</p> <p>10 to sail.</p> <p>11 Q. And just for the record, I misspoke when I</p> <p>12 was describing this exhibit, so I want to make it</p> <p>13 clear. It's actually a series -- it's a four-page</p> <p>14 exhibit, but it's actually a series of separate</p> <p>15 documents. And one -- the first page is -- which has</p> <p>16 an exhibit marker on it is the shipboard audit</p> <p>17 report, and then there's a separate document</p> <p>18 entitled, "Ship Audit Plan."</p> <p>19 A. Right.</p> <p>20 Q. And the third page is entitled, "ISM</p> <p>21 code -- I'm sorry, "ISM Code Certification Audit Log,</p> <p>22 ISM Code-Safety Code Management Certificate."</p> <p>23 And that's a two-page document; is</p> <p>24 that correct?</p> <p>25 A. Correct.</p>	<p>68</p> <p>1 A. I don't know.</p> <p>2 Q. Well, you're the designated person for the</p> <p>3 ship.</p> <p>4 A. Correct.</p> <p>5 Q. Who would have -- if somebody -- typically</p> <p>6 who would be the person that would request such a</p> <p>7 drawing? Would it be the designated person, or would</p> <p>8 it be somebody else?</p> <p>9 A. In this case I come back on the same</p> <p>10 statement, the vessel was built according to class</p> <p>11 regulations, flag state regulations, and there is for</p> <p>12 us no need or reason to order a separate drawing.</p> <p>13 Q. Are you aware of any situations where</p> <p>14 separate drawings have been ordered for any reason?</p> <p>15 I don't mean for this ship particularly, but for any</p> <p>16 ship?</p> <p>17 A. Yes, sometimes we ask for information.</p> <p>18 Q. Okay. And typically who would be the</p> <p>19 person who would do that?</p> <p>20 A. The superintendent.</p> <p>21 Q. Okay. You were asked by Mr. Whelan to give</p> <p>22 examples of what you considered to be critical</p> <p>23 equipment.</p> <p>24 A. Yeah.</p> <p>25 Q. Do you have any authority that you can</p>
<p>67</p> <p>1 Q. And these were all issued in Keelung after</p> <p>2 the audit; is that correct?</p> <p>3 A. Correct.</p> <p>4 MR. WHELAN: That's all I have.</p> <p>5 MR. GRUBER: A few follow-up</p> <p>6 questions.</p> <p>7 FURTHER EXAMINATION</p> <p>8 Q. (BY MR. GRUBER): Could Seatrade have</p> <p>9 requested a drawing of the hook-and-eye from the</p> <p>10 shipyard?</p> <p>11 A. I think they can.</p> <p>12 Q. I'm sorry?</p> <p>13 A. They can.</p> <p>14 Q. They can?</p> <p>15 A. Yeah.</p> <p>16 Q. Did they ever?</p> <p>17 MR. WHELAN: If he --</p> <p>18 THE WITNESS: If he doesn't -- I'm</p> <p>19 sorry.</p> <p>20 MR. WHELAN: Well, I'm going to object</p> <p>21 to the extent of his knowledge, but I mean, did they</p> <p>22 ever, "yes" or "no"? I mean, does he know whether</p> <p>23 they ever did it.</p> <p>24 Q. (BY MR. GRUBER): Do you know whether they</p> <p>25 ever requested such a drawing?</p>	<p>69</p> <p>1 point me to, written authority, to support your</p> <p>2 interpretation of what critical equipment is?</p> <p>3 A. I don't have the authority to appoint</p> <p>4 critical equipment, but our ISM system is approved by</p> <p>5 four classification societies and they indicate what</p> <p>6 critical equipment is. And the company has to comply</p> <p>7 with those regulations.</p> <p>8 Q. Well, that's what I'm asking about.</p> <p>9 Any of those classification societies,</p> <p>10 the company -- the entity which -- that formulated</p> <p>11 the ISM code, are there any written regulations or</p> <p>12 standards that you can point me to which define</p> <p>13 critical equipment?</p> <p>14 A. No.</p> <p>15 Q. Okay. Now, you weren't there when any of</p> <p>16 these inspections were made by the Dutch inspector or</p> <p>17 Bureau Veritas to get the ISM certificate? You</p> <p>18 weren't there when those inspections took place?</p> <p>19 A. No.</p> <p>20 Q. And you didn't see what the inspector</p> <p>21 actually looked at, did you? You don't --</p> <p>22 A. I was not there, so I don't -- I didn't see</p> <p>23 where he inspected.</p> <p>24 Q. And if, as you say, the hook-and-eye</p> <p>25 device, the locking device that was used for the</p>